2008 ACTS

Second Regular Session of the 115th Indiana General Assembly

Bill Numbers to Public Law Numbers Public Law Numbers to Bill Numbers

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Public Laws from 2008 Regular Session: Preface Certificate

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ACTS 2007

Laws enacted by the

115th GENERAL ASSEMBLY

at the

FIRST REGULAR SESSION
(2007)

NOTE:

Public Laws 235 and 236 originated in the 2007 First Regular Session of the Indiana General Assembly and were vetoed by the Governor in 2007. ***Article 5, Section 14 of the Indiana Constitution requires a bill that becomes law under such circumstances to be treated as a law of the session in which the bill originated.*** Because Public Laws 235 and 236 of 2007 could not be published with the other 2007 session laws, these Public Laws have been included at the beginning of this volume.

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

PREFACE TO 2007 ACTS

ARRANGEMENT

Public Laws 235 and 236 resulted from the 2008 override of 2007 vetoes.

PRINTING CODE

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

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2006 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.1-2007 (HEA 1084-2007), the technical correction bill prepared for the 2007 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in

a law enacted in 2006 were absent from other versions of the law enacted in the same session. P.L.1-2007 (HEA 1084-2007) in 2007 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

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

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment and to highlight any new text that was added by amendment. They are not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 115th First Regular Session is cited as P.L.1-2007.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification for P.L.235-2007 and P.L.236-2007 immediately follows the text of Public Law 236.

LAWS OF INDIANA

passed at the
FIRST REGULAR SESSION
115TH GENERAL ASSEMBLY

P.L.235-2007
[H.1388. Vetoed by the Governor April 27, 2007.
Passed over veto February 14, 2008.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 41. (a) As used in this section, ~~"motion picture~~ **"qualified media** production" ~~means:~~

~~(1) a feature length film, including a short feature and an independent or studio production, or a documentary; or~~

~~(2) a television series, program, or feature,~~

~~produced for any combination of theatrical or television viewing, or as a television pilot. The term includes preproduction, production, and postproduction work. However, the term does not include a motion picture that is obscene (under the standard set forth in IC 35-49-2-1) or television coverage of news or athletic events.~~ **has the meaning set forth in IC 6-3.1-32-5.**

(b) Except as provided in ~~subsection (d),~~ **subsections (d) and (e),**

a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a ~~motion picture~~ **qualified media** production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a ~~motion picture~~ **qualified media** production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, **performers,** crew members, or any other individual involved in a ~~motion picture~~ **qualified media** production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, **performers,** crew members, or any other individual involved in a ~~motion picture~~ **qualified media** production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property **that is:**

(1) a qualified production expenditure (as defined in IC 6-3.1-32-6) for which a tax credit is claimed under IC 6-3.1-32; or

(2) acquired for direct use in a ~~motion picture~~ **qualified media** production in Indiana if the transaction occurs after December 31, 2008.

SECTION 2. IC 6-3.1-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 32. Media Production Expenditure Tax Credit

Sec. 1. As used in this chapter, "corporation" refers to the Indiana economic development corporation.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 4. As used in this chapter, "qualified applicant" means a person, corporation, partnership, limited liability partnership, limited liability company, or other entity that is engaged in the business of making qualified media productions in Indiana.

Sec. 5. (a) As used in this chapter, "qualified media production" refers to the following:

(1) Any of the following that is produced for any combination of theatrical or television viewing or as a television pilot:

(A) A feature length film, including a short feature, an independent or studio production, or a documentary.

(B) A television series, program, or feature.

(2) A digital media production that is intended for reasonable commercial exploitation.

(3) An audio recording or a music video.

(4) An advertising message broadcast on radio or television.

(5) A media production concerning:

(A) training; or

(B) external marketing or communications.

(b) The term includes preproduction, production, and postproduction work.

(c) The term does not include a production in any medium that is obscene (under the standard set forth in IC 35-49-2-1) or television coverage of news or athletic events.

Sec. 6. (a) As used in this chapter, "qualified production expenditure" means any of the following expenses incurred in Indiana or expenditures in Indiana made in the direct production of a qualified media production in Indiana:

(1) The payment of wages, salaries, and benefits to Indiana residents.

(2) Acquisition costs for a story or scenario used in the qualified media production.

(3) Acquisition costs for locations, sets, wardrobes, and accessories.

(4) Expenditures for materials used to make sets, wardrobes, and accessories.

(5) Expenditures for photography, sound synchronization, lighting, and related services.

(6) Expenditures for editing and related services.

(7) Facility and equipment rentals.

(8) Food and lodging.

(9) Legal services if purchased from an attorney licensed to practice law in Indiana.

(10) Any other production expenditure for which taxes are assessed or imposed by the state.

(b) The term does not include expenditures for payments of wages, salaries, or benefits to an individual who is a director, a producer, a screenwriter, or an actor (excluding extras), unless the individual is a resident of Indiana.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 9. A qualified applicant that:

(1) incurs or makes qualified production expenditures of:

(A) at least one hundred thousand dollars ($100,000), in the case of a qualified media production described in section 5(a)(1) of this chapter; or

(B) at least fifty thousand dollars ($50,000), in the case of a qualified media production described in section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter; and

(2) satisfies the requirements of this chapter;

is entitled to a refundable tax credit as provided in this chapter.

Sec. 10. This section applies to a taxpayer that claims qualified production expenditures of less than six million dollars ($6,000,000) in a taxable year for purposes of the tax credit under this chapter. The amount of the tax credit to which a taxpayer is entitled under this chapter equals the product of:

(1) fifteen percent (15%); multiplied by

(2) the amount of the taxpayer's qualified production expenditures in the taxable year.

Sec. 11. This section applies to a taxpayer that claims qualified

production expenditures of at least six million dollars ($6,000,000) in a taxable year for purposes of the tax credit under this chapter. If the corporation approves the granting of a tax credit to the taxpayer under section 13 of this chapter, the amount of the tax credit to which the taxpayer is entitled under this chapter equals the product of:

(1) the percentage determined by the corporation under section 13 of this chapter; multiplied by

(2) the amount of the taxpayer's qualified production expenditures in the taxable year.

Sec. 12. (a) To receive the tax credit provided by this chapter, a taxpayer must claim the tax credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided under this chapter.

(b) In the case of a taxpayer that claims a tax credit under section 11 of this chapter, the taxpayer must also file with the taxpayer's annual state tax return or returns a copy of the agreement entered into by the corporation and the taxpayer under section 13 of this chapter for the tax credit.

Sec. 13. (a) A taxpayer that proposes to claim a tax credit under section 11 of this chapter must, before incurring or making the qualified production expenditures, apply to the corporation for approval of the tax credit.

(b) After receiving an application under subsection (a), the corporation may enter into an agreement with the applicant for a tax credit under section 11 of this chapter if the corporation determines that:

(1) the applicant's proposed qualified media production:

(A) is economically viable; and

(B) will increase economic growth and job creation in Indiana; and

(2) the applicant's proposed qualified media production and qualified production expenditures otherwise satisfy the requirements of this chapter.

(c) If the corporation and an applicant enter into an agreement under this section, the agreement must specify the following:

(1) The percentage to be used under section 11(1) of this

chapter in determining the amount of the tax credit. The percentage may not be more than fifteen percent (15%).

(2) Any requirements or restrictions that the applicant must satisfy before the applicant may claim the tax credit.

(d) The maximum amount of tax credits that the corporation may approve under this section during a particular taxable year for all taxpayers is five million dollars ($5,000,000).

Sec. 14. If the amount of the tax credit provided under this chapter to a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer is entitled to a refund of the excess.

Sec. 15. If a pass through entity is entitled to a tax credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 16. A taxpayer may not sell, assign, convey, or otherwise transfer a tax credit provided under this chapter.

Sec. 17. A qualified applicant is not entitled to a tax credit under this chapter for tangible personal property:

(1) that is a qualified production expenditure; and

(2) for which the qualified applicant claims an exemption under IC 6-2.5-5-41.

Sec. 18. Notwithstanding any other provision, including any reciprocity agreements entered into by the state, a taxpayer that is a corporation or a nonresident person and that claims a tax credit under this chapter (or any successor in interest in any part of the taxpayer) must file an Indiana income tax return for at least the first five (5) years that the taxpayer has income from the qualified media production for which the tax credit was granted. Notwithstanding the income apportionment provisions of IC 6-3 and any rules adopted by the department of state revenue, in the case of a corporation or a nonresident person (or any successor in interest in any part of the corporation or nonresident person), the portion of the income from the qualified media production that for

purposes of taxation under IC 6-3 is considered to be derived from sources within Indiana is equal to:

(1) the income of the corporation or nonresident person (or the successor in interest of the corporation or nonresident person) from the qualified media production; multiplied by

(2) a percentage equal to:

(A) the amount of qualified production expenditures for which the tax credit was granted for the qualified media production; divided by

(B) the total production expenditures for the qualified media production.

Sec. 19. (a) If a taxpayer (or any successor in interest of the taxpayer) fails to satisfy any condition of this chapter or any condition in an agreement under section 13 of this chapter, or fails to file tax returns as required by section 18 of this chapter, the corporation may:

(1) disallow the use of all or a part of any unused tax credit granted to the taxpayer (or any successor in interest of the taxpayer) under this chapter;

(2) recapture all or a part of the tax credit under this chapter that has been applied to the state tax liability of the taxpayer (or any successor in interest of the taxpayer); or

(3) both disallow the tax credit under subdivision (1) and recapture the tax credit under subdivision (2).

(b) A taxpayer may not receive a credit under this chapter unless the taxpayer:

(1) consents that the taxpayer (and any successor in interest of the taxpayer) will be subject to the jurisdiction of Indiana courts;

(2) consents that service of process in accordance with the Indiana Rules of Trial Procedure is proper service and subjects the taxpayer (and any successor in interest of the taxpayer) to the jurisdiction of Indiana courts; and

(3) consents that any civil action related to the provisions of this chapter and in which the taxpayer (or any successor in interest of the taxpayer) is a party will be heard in an Indiana court.

Sec. 20. (a) A tax credit may not be awarded under this chapter for a taxable year ending after December 31, 2011.

(b) This chapter expires January 1, 2012.

SECTION 3. [EFFECTIVE JULY 1, 2007] **IC 6-3.1-32, as added by this act, applies to tax credits for qualified production expenditures made after June 30, 2007.**

P.L.236-2007

[H.1429. Vetoed by the Governor May 4, 2007.
Passed over veto March 14, 2008.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a) This section does not apply to a lien on a Medicaid recipient's real property under IC 12-15-8.5.**

(b) This section applies only to a lien on a recovery under section 1 or section 2 of this chapter.

(c) The office shall pay attorney's fees in the amount of one (1) of the following:

(1) ~~Seven and five-tenths~~ **Twenty-five** percent ~~(7.5%)~~ **(25%)** of the office's recovery under the lien if the claim was collected without initiating legal proceedings.

(2) ~~Ten~~ **Thirty-three and one-third** percent ~~(10%)~~ **(33 1/3%)** of the office's recovery under the lien if the claim was collected by initiating legal proceedings.

SECTION 2. IC 12-15-8.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 13. (a) The office may contract with an attorney to obtain or enforce a lien under this chapter.**

(b) If the office contracts with an attorney under this section, the attorney's fees may not exceed:

(1) seven and five-tenths percent (7.5%) of the office's

recovery under the lien if the proceeding to obtain and enforce the lien is not contested; or

(2) ten percent (10%) of the office's recovery under the lien if the proceeding to obtain and enforce the lien is contested.

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.235-2007 and P.L.236-2007 of the First Regular Session of the One Hundred Fifteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 11th day of April, 2008.

David C. Long
President Pro Tempore, Senate

B. Patrick Bauer
Speaker, House of Representatives

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ACTS 2008

Laws enacted by the

115th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION
(2008)

VOLUME I

(P.L.1-2008 through P.L.3-2008)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

PREFACE TO 2008 ACTS

ARRANGEMENT

This year's edition of the Acts of Indiana includes all laws from the Second Regular Session of the 115th General Assembly. The laws are arranged into two categories: first, laws of a permanent nature that amend the Indiana Code or laws that are temporary or special in nature and that do not amend the Code; and second, joint resolutions.

Public Law 2 of the 2008 Second Regular Session of the 115th General Assembly (P.L.2-2008) is a nonsubstantive act to recodify the Indiana Code provisions concerning agriculture and animals. Public Law 3 of the 2008 Second Regular Session of the 115th General Assembly (P.L.3-2008) is a technical, nonsubstantive act to correct technical errors in Indiana's statutory law. Public Law 146 of the 2008 Second Regular Session of the 115th General Assembly (P.L.146-2008) is a voluminous act concerning taxation, finance, and local government.

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

PRINTING CODE

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

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2007 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.3-2008 (HEA 1137-2008), the technical correction bill prepared for the 2008 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law enacted in 2007 were absent from other versions of the law enacted in the same session. P.L.3-2008 (HEA 1137-2008) in 2008 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

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

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment

and to highlight any new text that was added by amendment. They are not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 115th Second Regular Session is cited as P.L.1-2008.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification immediately follows the text of the session laws in the last volume of the 2008 Acts.

CASH STATEMENT

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

TABLES

There are two citation tables at the end of the last volume of the 2008 Acts, offset from the text by a green divider. The Table of Citations Affected sets out each section of the Code that has been affected by legislation enacted at the Second Regular Session of the 115th General Assembly. The Enrolled Act Number to Public Law Number Table provides cross-references from House and Senate bill numbers to public law numbers for the Second Regular Session of the 115th General Assembly.

INDEX

Immediately following the tables in the last volume of the 2008 Acts is a subject index for the legislation enacted at the Second Regular Session of the 115th General Assembly.

LAWS OF INDIANA

passed at the
SECOND REGULAR SESSION
115TH GENERAL ASSEMBLY

P.L.1-2008
[H.1010. Approved November 21, 2007.]

AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

SECTION 1. IC 6-1.1-15-1, AS AMENDED BY P.L.219-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] : Sec. 1. (a) A taxpayer may obtain a review by the county board of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for a review under this section, including a meeting under subsection (h) with the county or township official referred to in this subsection; and

(2) the procedures the taxpayer must follow in order to obtain a

review under this section.

(b) In order to obtain a review of an assessment effective for the assessment date to which the notice referred to in subsection (a) applies, the taxpayer must file a notice in writing with the county or township official referred to in subsection (a) not later than forty-five (45) days after the date of the notice referred to in subsection (a).

(c) A taxpayer may obtain a review by the county board of the assessment of the taxpayer's tangible property effective for an assessment date for which a notice of assessment is not given as described in subsection (a). To obtain the review, the taxpayer must file a notice in writing with the township assessor of the township in which the property is subject to assessment. The right of a taxpayer to obtain a review under this subsection for an assessment date for which a notice of assessment is not given does not relieve an assessing official of the duty to provide the taxpayer with the notice of assessment as otherwise required by this article. For an assessment date in a year before 2009, the notice must be filed on or before May 10 of the year. For an assessment date in a year after 2008, the notice must be filed not later than the later of:

(1) May 10 of the year; or

(2) forty-five (45) days after the date of the statement mailed by the county auditor under IC 6-1.1-17-3(b).

(d) A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (c) after the time prescribed in subsection (c) becomes effective for the next assessment date. A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (b) or (c) remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed under this article.

(e) The written notice filed by a taxpayer under subsection (b) or (c) must include the following information:

(1) The name of the taxpayer.

(2) The address and parcel or key number of the property.

(3) The address and telephone number of the taxpayer.

(f) A county or township official who receives a notice for review filed by a taxpayer under subsection (b) or (c) shall immediately forward the notice to the county board.

(g) The county board shall hold a hearing on a review under this

subsection not later than one hundred eighty (180) days after the date of the notice for review filed by the taxpayer under subsection (b) or (c). The county board shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. The taxpayer and the county or township official with whom the taxpayer filed the notice for review are parties to the proceeding before the county board.

(h) Before the county board holds the hearing required under subsection (g), the taxpayer may request a meeting by filing a written request with the county or township official with whom the taxpayer filed the notice for review to:

(1) attempt to resolve as many issues under review as possible; and

(2) seek a joint recommendation for settlement of some or all of the issues under review.

A county or township official who receives a meeting request under this subsection before the county board hearing shall meet with the taxpayer. The taxpayer and the county or township official shall present a joint recommendation reached under this subsection to the county board at the hearing required under subsection (g). The county board may adopt or reject the recommendation in whole or in part.

(i) At the hearing required under subsection (g):

(1) the taxpayer may present the taxpayer's reasons for disagreement with the assessment; and

(2) the county or township official with whom the taxpayer filed the notice for review must present:

(A) the basis for the assessment decision; and

(B) the reasons the taxpayer's contentions should be denied.

(j) The county board may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (g). **If the action for which a taxpayer seeks review under this section is the assessment of tangible property, the taxpayer is not required to have an appraisal of the property in order to do the following:**

(1) Initiate the review.

(2) Prosecute the review.

(k) Regardless of whether the county board adopts a

recommendation under subsection (h), the county board shall prepare a written decision resolving all of the issues under review. The county board shall, by mail, give notice of its determination not later than one hundred twenty (120) days after the hearing under subsection (g) to the taxpayer, the county assessor, and the township assessor.

(l) If the maximum time elapses:

(1) under subsection (g) for the county board to hold a hearing; or

(2) under subsection (k) for the county board to give notice of its determination;

the taxpayer may initiate a proceeding for review before the Indiana board by taking the action required by section 3 of this chapter at any time after the maximum time elapses.

SECTION 2. IC 6-1.1-15-3, AS AMENDED BY P.L.219-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county board's action with respect to the following:

(1) The assessment of that taxpayer's tangible property if the county board's action requires the giving of notice to the taxpayer.

(2) The exemption of that taxpayer's tangible property if the taxpayer receives a notice of an exemption determination by the county board under IC 6-1.1-11-7.

(b) The county assessor is the party to the review under this section to defend the determination of the county board. At the time the notice of that determination is given to the taxpayer, the taxpayer shall also be informed in writing of:

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

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

(c) A county assessor who dissents from the determination of an assessment or an exemption by the county board may obtain a review of the assessment or the exemption by the Indiana board.

(d) In order to obtain a review by the Indiana board under this section, the party must, not later than forty-five (45) days after the date of the notice given to the party or parties of the determination of the county board:

(1) file a petition for review with the Indiana board; and

(2) mail a copy of the petition to the other party.

(e) The Indiana board shall prescribe the form of the petition for

review of an assessment determination or an exemption by the county board. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. A petition for review of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the reasons why the petitioner believes that the assessment determination or the exemption determination by the county board is erroneous.

(f) If the action for which a taxpayer seeks review under this section is the assessment of tangible property, the taxpayer is not required to have an appraisal of the property in order to do the following:

(1) Initiate the review.

(2) Prosecute the review.

SECTION 3. IC 6-1.1-18.5-2, AS AMENDED BY P.L.224-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "Indiana nonfarm personal income" means the estimate of total nonfarm personal income for Indiana in a calendar year as computed by the federal Bureau of Economic Analysis using any actual data for the calendar year and any estimated data determined appropriate by the federal Bureau of Economic Analysis.

(b) Subject to subsection (c), for purposes of determining a civil taxing unit's maximum permissible ad valorem property tax levy for an ensuing calendar year, the civil taxing unit shall use the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: For each of the six (6) calendar years immediately preceding the year in which a budget is adopted under IC 6-1.1-17-5 for the ensuing calendar year, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year, rounding to the nearest one-thousandth (0.001).

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6), rounding to the nearest one-thousandth (0.001).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE quotient.

(B) One and six-hundredths (1.06).

(c) This subsection applies only to civil taxing units in Lake County. Notwithstanding any other provision, for property taxes first due and payable after December 31, 2007, the assessed value growth quotient used to determine a civil taxing unit's maximum permissible ad valorem property tax levy under this chapter for a particular calendar year is ~~zero (0)~~ **one (1)** unless a tax rate of one percent (1%) will be in effect under IC 6-3.5-1.1-26 or IC 6-3.5-6-32 in Lake County for that calendar year.

SECTION 4. IC 6-3.5-1.5-1, AS ADDED BY P.L.224-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The department of local government finance and the department of state revenue shall, before July 1 of each year, jointly calculate the county adjusted income tax rate or county option income tax rate (as applicable) that must be imposed in a county to raise income tax revenue in the following year equal to the sum of the following STEPS:

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

(1) the department of local government finance's estimate of the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all political subdivisions in the county for the ensuing calendar year (before any adjustment under IC 6-1.1-18.5-3(g) or IC 6-1.1-18.5-3(h) for the ensuing calendar year); minus

(2) the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all political subdivisions in the county for the current calendar year.

In the case of a civil taxing unit that is located in more than one (1) county, the department of local government finance shall, for purposes of making the determination under this subdivision, apportion the civil taxing unit's maximum permissible ad valorem property tax levy among the counties in which the civil taxing unit is located.

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

(1) the department of local government finance's estimate of the family and children property tax levy that will be imposed by the county under IC 12-19-7-4 for the ensuing calendar year (before any adjustment under IC 12-19-7-4(b) for the ensuing

calendar year); minus

(2) the county's family and children property tax levy imposed by the county under IC 12-19-7-4 for the current calendar year.

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

(1) the department of local government finance's estimate of the children's psychiatric residential treatment services property tax levy that will be imposed by the county under IC 12-19-7.5-6 for the ensuing calendar year (before any adjustment under IC 12-19-7.5-6(b) for the ensuing calendar year); minus

(2) the children's psychiatric residential treatment services property tax imposed by the county under IC 12-19-7.5-6 for the current calendar year.

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

(1) the department of local government finance's estimate of the county's maximum community mental health centers property tax levy under IC 12-29-2-2 for the ensuing calendar year (before any adjustment under IC 12-29-2-2(c) for the ensuing calendar year); minus

(2) the county's maximum community mental health centers property tax levy under IC 12-29-2-2 for the current calendar year.

(b) In the case of a county that wishes to impose a tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) for the first time, the department of local government finance and the department of state revenue shall jointly estimate the amount that will be calculated under subsection (a) in the second year after the tax rate is first imposed. The department of local government finance and the department of state revenue shall calculate the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) that must be imposed in the county in the second year after the tax rate is first imposed to raise income tax revenue equal to the estimate under this subsection.

(c) The department and the department of local government finance shall make the calculations under subsections (a) and (b) based on the best information available at the time the calculation is made.

~~(d) For purposes of calculating a tax rate under this section, the department of local government shall round up to the nearest one-tenth of one percent (0.1%).~~

SECTION 5. P.L.234-2007, SECTION 300, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 300. (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.

(b) Subject to appropriation of money from the property tax reduction trust fund for an additional 2007 homestead credit, the department of local government finance shall calculate and certify to the department of state revenue and the county auditor of each county an additional homestead credit amount for property taxes first due and payable in 2007. The additional homestead credit shall be paid as a refund as provided in this SECTION for part of the tax liability (as defined in IC 6-1.1-21-5) imposed on the taxpayer's homestead for the March 1, 2006, or January 15, 2007, assessment date. The department of local government finance shall make the certification based on the best information available at the time the certification is made. Not later than November 1, 2007, the department of state revenue shall distribute to the county treasurer of each county the amount certified for the county under this subsection. The county treasurer shall deposit the amount distributed in a separate account and use the money only for the purposes of providing property tax refunds under this SECTION.

(c) At the same time as the department of local government finance makes the certification under subsection (b), the department of local government finance shall certify to the county auditor of each county the percentage that would apply in each taxing district to provide an additional 2007 homestead credit to taxpayers in the taxing district. The county auditor shall use the certified percentage to determine the amount of the refund due to each taxpayer. The county auditor shall certify the amount of the refund for each taxpayer to the county treasurer not later than the December 20, 2007, settlement date. IC 6-1.1-26 does not apply to a refund granted under this SECTION. The amount of the refund is equal to the lesser of the following:

(1) The amount of the taxpayer's tax liability (as defined in IC 6-1.1-21-5) on a homestead for the March 1, 2006, or January 15, 2007, assessment date, after the application of all other credits.

(2) The additional 2007 homestead credit determined for the taxpayer.

The department of local government finance, the department of state

revenue, and the property tax replacement fund board shall take the actions necessary to carry out this SECTION.

(d) **A county legislative body may adopt an ordinance providing that** the amount of the refund shall be applied first against any delinquent property taxes owed in the county by the taxpayer.

(e) The county auditor shall issue a warrant for or authorize disbursement by electronic transfer of the remainder of the refund. The refund shall be:

(1) mailed to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; or

(2) transmitted by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records.

~~(e)~~ **(f)** In addition, the county auditor shall mail to the last known address of each person liable for any property taxes or special assessment on each homestead in the county, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book a written explanation of the refund. The explanation must include the amount of the refund specified in the following statement in at least 12 point type:

"A portion of your local property taxes due in 2007 are being refunded due to tax relief provided by the Indiana General Assembly. Your refund is in the amount of $_____ (insert amount of refund). If you did not receive a check because you pay your property taxes through an escrow account along with your mortgage, your lender will receive the refund and should adjust your payments accordingly.".

~~(f)~~ **(g)** Any part of the amount distributed to a county under this SECTION that is not applied or refunded as provided in this SECTION shall be transferred to the auditor of state for deposit in the property tax reduction trust fund.

~~(g)~~ **(h)** This SECTION expires January 1, 2009.

SECTION 6. P.L.234-2007, SECTION 301, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 301. (a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21

apply throughout this SECTION.

(b) Subject to appropriation of money from the property tax reduction trust fund for an additional 2008 homestead credit, the department of local government finance shall calculate and certify to the department of state revenue and the county auditor of each county an additional homestead credit amount for property taxes first due and payable in 2008. The department of local government finance shall certify to the county auditor of each county the percentage that will apply in each taxing district to provide the additional 2008 homestead credit to taxpayers in the taxing district. The department of local government finance, the department of state revenue, and the property tax replacement fund board shall take the actions necessary to apply the additional 2008 homestead credit under this SECTION.

(c) The additional homestead credit under this SECTION shall be applied:

(1) before the application of any local property tax replacement credits provided in a county under IC 6-3.5-1.1-26(f) or IC 6-3.5-6-32(f) for property taxes first due and payable in 2008; and

(2) before the application of any increase in the homestead credit percentage in a county under IC 6-3.5-1.1-26(f) or IC 6-3.5-6-32(f) for property taxes first due and payable in 2008.

~~(c)~~ **(d)** This SECTION expires July 1, 2009.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) Any action taken by the department of local government finance before the effective date of this SECTION to do any of the following with respect to property taxes first due and payable in 2007 in any county is legalized and validated:**

(1) Halt billing and collection.

(2) Invalidate the certification under IC 6-1.1-17-16(f) of the department's actions concerning budgets, rates, and levies.

(3) Revise and reissue certifications referred to in subdivision (2).

(4) Require the preparation and delivery under IC 6-1.1-22-5 of an abstract that is based on the assessed values determined in a reassessment:

(A) performed by; or

(B) ordered by;

the department of local government finance under IC 6-1.1-4 or IC 6-1.1-14.

(5) Allow payments of installments on dates and in amounts different from the dates and amounts that applied in an earlier issuance of tax statements by the county.

(6) Allow the issuance of reconciling property tax statements to reconcile the payment of different amounts referred to in subdivision (5) as compared to the amounts finally determined to be due and payable.

(7) Waive all or part of a penalty under IC 6-1.1-37-10.

(b) The department of local government finance may take any action listed in subsection (a) on or after the effective date of this SECTION with respect to property taxes first due and payable in 2007 in any county.

(c) Any action taken before the effective date of this SECTION by a unit of local government or a public official on behalf of a unit of local government that:

(1) is in response to; and

(2) is consistent with;

an action of the department of local government finance referred to in subsection (a) is legalized and validated.

(d) A unit of local government or a public official on behalf of a unit of local government may take any action on or after the effective date of this SECTION that:

(1) is in response to; and

(2) is consistent with;

an action of the department of local government finance referred to in subsection (a) or (b).

SECTION 8. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) Notwithstanding the deadlines in the following statutes, the deadline with respect to real property for filing the statement to apply for a deduction or a credit under any of the following statutes for property taxes first due and payable in 2008 is October 15, 2007:**

(1) IC 6-1.1-12-2(a).

(2) IC 6-1.1-12-10.1(a).

(3) IC 6-1.1-12-12(a).

(4) IC 6-1.1-12-15(a).

(5) IC 6-1.1-12-17.

(6) IC 6-1.1-12-17.5(a).

(7) IC 6-1.1-12-27.1.

(8) IC 6-1.1-12-30.

(9) IC 6-1.1-20.9-3(a).

(b) Notwithstanding the deadline in IC 6-1.1-12-35.5(a), the deadline with respect to real property for filing the statement under IC 6-1.1-12-35.5(a) to apply for a deduction or a credit authorized by either of the following statutes for property taxes first due and payable in 2008 is October 15, 2007:

(1) IC 6-1.1-12-33.

(2) IC 6-1.1-12-34.

(c) A person entitled to receive a credit under IC 6-1.1-20.9 for property taxes first due and payable in 2008 under the filing of a statement as permitted under subsection (a)(9) is entitled to the standard deduction for that year under IC 6-1.1-12-37 in the same amount and in the same manner that would have applied if the person had met the deadline under IC 6-1.1-20.9-3(a) to apply for the credit for that year.

(d) This SECTION expires January 1, 2009.

SECTION 9. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) Notwithstanding any provision in IC 6-3.5-1.1 (including the August 1 deadlines applicable under IC 6-3.5-1.1-24(a), IC 6-3.5-1.1-24(b), IC 6-3.5-1.1-25(i), and IC 6-3.5-1.1-26(e)), a county council may in 2007 adopt an additional county adjusted gross income tax rate under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 at any time before January 1, 2008.**

(b) Notwithstanding any provision in IC 6-3.5-6 (including the August 1 deadlines applicable under IC 6-3.5-6-30(a), IC 6-3.5-6-30(b), IC 6-3.5-6-31(i), and IC 6-3.5-6-32(e)), a county income tax council or county council, as applicable, may in 2007 adopt an additional county option income tax rate under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 at any time before January 1, 2008.

(c) An ordinance to impose an additional county adjusted gross income tax rate under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 or an additional county option income tax rate under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 is legalized and validated if:

(1) the ordinance was adopted after the August 1 deadline applicable under IC 6-3.5-1.1-24(a), IC 6-3.5-1.1-24(b), IC 6-3.5-1.1-25(i), IC 6-3.5-1.1-26(e), IC 6-3.5-6-30(a), IC 6-3.5-6-30(b), IC 6-3.5-6-31(i), or IC 6-3.5-6-32(e);

(2) the ordinance was adopted before the effective date of this SECTION; and

(3) except for the requirement that the ordinance be adopted by the August 1 deadline, the ordinance was adopted as required by law.

(d) Notwithstanding any provision of IC 6-3.5-1.1 or IC 6-3.5-6, any additional county adjusted gross income tax rate adopted in 2007 under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 and any additional county option income tax rate adopted in 2007 under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 takes effect as follows:

(1) In the case of an ordinance adopted before October 1, 2007, the tax rate takes effect October 1, 2007.

(2) In the case of an ordinance adopted after September 30, 2007, and before October 16, 2007, the tax rate takes effect November 1, 2007.

(3) In the case of an ordinance adopted after October 15, 2007, and before November 16, 2007, the tax rate takes effect December 1, 2007.

(4) In the case of an ordinance adopted after November 15, 2007, and before January 1, 2008, the tax rate takes effect January 1, 2008.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) If the balance available in the property tax reduction trust fund is insufficient to pay at least one hundred twelve million dollars ($112,000,000) in the state fiscal year ending June 30, 2008, as additional 2008 homestead credits under P.L.234-2007, SECTION 301, the auditor of state shall transfer from the state general fund to the property tax reduction trust fund the difference between one hundred twelve million dollars ($112,000,000) and the balance available in the property tax reduction trust fund. The amount necessary to make the transfer required by this subsection is appropriated from the state general fund.**

(b) If any amounts are transferred to the property tax reduction trust fund under subsection (a), the auditor of state shall transfer

from the property tax reduction trust fund to the state general fund the amount necessary to repay the amount transferred to the property tax reduction trust fund. Any repayment transfers required by this subsection shall be made according to a schedule determined by the budget agency. The amount necessary to make any repayment transfers required by this subsection is appropriated from the property tax reduction trust fund.

SECTION 11. **An emergency is declared for this act.**

P.L.2-2008
[S.190. Approved March 5, 2008.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-10 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 10. EFFECT OF RECODIFICATION OF TITLE 15

Chapter 1. Effect of Recodification by the Act of the 2008 Regular Session of the General Assembly

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning agriculture and animals that are repealed or amended in the recodification act of the 2008 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2008 regular session of the general assembly. The term includes statutes that are recodified outside this title by the recodification act of the 2008 regular session of the general assembly, such as law related to veterinarians and destruction of animals.

Sec. 2. The purpose of the recodification act of the 2008 regular

session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2008 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2008 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2007 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2008 regular session of the general assembly had not been enacted.

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2008 regular session of the general assembly.

Sec. 4. (a) The recodification act of the 2008 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

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

(6) any tax levies made or authorized;(7) any funds established;

(8) any patents issued;

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

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

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

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

before the effective date of the recodification act of the 2008 regular session of the general assembly (July 1, 2008). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2008 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2008 regular session of the general assembly does not:

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

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

issued under the prior law.

(c) The recodification act of the 2008 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

Sec. 5. The recodification act of the 2008 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if the literal meaning of the recodification act of the 2008 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2008 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2008 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning

of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2008 regular session of the general assembly to the extent that the recodification act of the 2008 regular session of the general assembly is not substantively identical to the prior law.

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 2008 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

Sec. 7. A citation reference in the recodification act of the 2008 regular session of the general assembly to another provision of the recodification act of the 2008 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the recodification act of the 2008 regular session of the general assembly that is referred to by the citation reference.

Sec. 8. (a) As used in the recodification act of the 2008 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2008 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 2008 regular session of the general assembly; or

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

(b) Rules adopted under the prior law continue in effect after June 30, 2008, until the rules are amended, repealed, or suspended.

Sec. 9. (a) A reference in the recodification act of the 2008 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2008 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2008 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

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

(6) any tax levies made;

(7) any funds established;

(8) any patents issued;

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

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

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

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

before the effective date of the recodification act of the 2008 regular session of the general assembly (July 1, 2008). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2008 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2008 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2008 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2008 regular session of the general assembly in a manner that does not result in a substantive change in the law.

SECTION 2. IC 15-11 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 11. DEPARTMENT OF AGRICULTURE

Chapter 1. Definitions

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

Sec. 2. "Department" refers to the department of agriculture established by IC 15-11-2-1.

Sec. 3. "Director" refers to the director of the department of agriculture appointed under IC 15-11-3-1.

Sec. 4. "Division" refers to the division of soil conservation established by IC 15-11-4-1.

Sec. 5. "Secretary" refers to the lieutenant governor as secretary of agriculture and rural development as provided in IC 4-4-2.3.

Chapter 2. Establishment of the Department

Sec. 1. The department of agriculture is established.

Sec. 2. The director is the chief executive and administrative officer of the department.

Sec. 3. The department shall do the following:

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

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

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

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

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

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

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

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

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

(I) The division.

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

(2) Administer the election of state fair board members under IC 15-13-5.

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

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

(5) Administer economic development efforts for agriculture.

Sec. 4. The department shall work with:

(1) automobile manufacturers to improve awareness and labeling of E85 base fuel; and

(2) the appropriate companies to include E85 base fuel stations in updates of global positioning navigation software.

Sec. 5. The department may adopt rules under IC 4-22-2 to carry out the duties, purposes, and functions of the department.

Chapter 3. Director

Sec. 1. The governor shall appoint the director of the department.

Sec. 2. The director:

(1) serves at the governor's pleasure;

(2) is entitled to receive compensation in an amount set by the governor; and

(3) is responsible to the secretary.

Sec. 3. The director may appoint employees in the manner provided by IC 4-15-2 and fix their compensation, subject to the approval of the budget agency under IC 4-12-1-13.

Sec. 4. The director may delegate the director's authority to the appropriate department staff.

Sec. 5. The director shall establish a board to advise the department in the implementation of the department's duties.

Chapter 4. Division of Soil Conservation

Sec. 1. The division of soil conservation is established in the department.

Sec. 2. The director is the administrative head of the division.

Sec. 3. (a) The division shall do the following:

(1) Provide administrative and staff support for the soil conservation board.

(2) Administer all programs relating to land and soil conservation in Indiana.

(3) Manage Indiana's watersheds.

(4) Administer the clean water Indiana program.

(5) Perform other functions assigned by the secretary or the director.

(b) The duties of the division do not include administering the Lake Michigan Coastal program. The Lake Michigan Coastal program shall administer the state's compliance with and provide assistance under the federal Coastal Zone Management Act (16 U.S.C. 1451 et seq.).

(c) The duties of the division do not include those listed in IC 14-32-7-12(b)(7).

Chapter 5. Promotion of Livestock Shows

Sec. 1. As used in this chapter, "livestock" includes the following:

(1) Beef cattle, dairy cattle, and other animals of the bovine species.

(2) Swine and other animals of the porcine species.

(3) Sheep and other members of the ovine species.

(4) Horses, mules, burros, asses, and other animals of the equine species.

(5) Goats and other members of the caprine species.

(6) Poultry and other birds of the avian species.

(7) Ostriches, rhea, emus, and other birds of the ratite species.

(8) Camels, llamas, and other members of the camelid species.

(9) Farm raised deer, elk, moose, and other members of the cervidae species.

(10) Bison.

(11) Aquatic animals that are the subject of aquaculture.

(12) Rabbits.

Sec. 2. As used in this chapter, "fund" refers to the livestock industry promotion and development fund established by section 4(a) of this chapter.

Sec. 3. The department shall aid, encourage, foster, and promote the development and improvement of the livestock industry throughout Indiana.

Sec. 4. (a) The livestock industry promotion and development fund is established as a dedicated fund to be administered by the department.

(b) Money in the fund must be spent by the department:

(1) exclusively for the purposes described in this chapter,

including administrative expenses; and

(2) throughout Indiana.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, the money in the fund reverts to the state general fund.

(d) There is annually appropriated to the department the entire amount of money in the fund for the use of the department in carrying out the purposes of this chapter.

Sec. 5. The department may make grants from the fund to associations or organizations for the following purposes:

(1) To conduct or support livestock industry shows, sales, expositions, conventions, or similar events throughout Indiana consistent with the purposes of this chapter.

(2) To support expanding markets for Indiana livestock producers by encouraging the development of business and industry related to livestock production, processing, and distribution.

Sec. 6. (a) An association or organization may not qualify for or be eligible to receive any part of the fund awarded as grants unless there is provided and made available from sources other than the fund an amount for grants equal to or in excess of that allocated from the fund under this chapter.

(b) Funds approved and designated by the department for purposes other than grant awards are exempt from the matching fund requirements for grant awards under subsection (a).

Sec. 7. An association or organization must be a nonprofit entity to be eligible for grants under this chapter.

Sec. 8. The department may adopt rules under IC 4-22-2 to carry out this chapter.

Chapter 6. Promotion of Foreign Markets for Agricultural Products

Sec. 1. The director is responsible for foreign market promotion for agricultural products.

Sec. 2. Within the limit of funds specifically appropriated for that purpose, the director may establish and maintain offices in foreign countries for the purpose of promoting international markets for Indiana agricultural products.

Sec. 3. Within the limit of funds specifically appropriated for that purpose, the director may operate livestock export inspection

facilities meeting the requirements of the United States Department of Agriculture for livestock inspection before export shipments.

Sec. 4. The director may establish and collect fair and reasonable livestock inspection fees to cover the cost of administering livestock export facilities.

Sec. 5. Livestock export facilities must be located in areas that encourage the collection of livestock from Indiana and the Midwest for exportation.

Sec. 6. (a) The livestock export facility administration fund is established as a dedicated fund to be administered by the director.

(b) All fees collected under section 4 of this chapter shall be deposited in the fund. The money in the fund may be spent by the director exclusively for the purposes described in this chapter.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, money in the fund reverts to the state general fund.

Chapter 7. Promotion of Aquaculture

Sec. 1. As used in this chapter, "aquaculture" means a form of agriculture that is the controlled cultivation and harvest of aquatic plants and animals.

Sec. 2. The director shall do the following:

(1) Organize and develop an information and market research center for aquaculture.

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

(3) Encourage the development and growth of aquaculture.

Sec. 3. A person engaged in the business of aquaculture is entitled to the same consideration for a grant or loan under the statutes or administrative rules of the state as a person engaged in other forms of farming.

Chapter 8. Inspection of Grain Moisture Testing Equipment

Sec. 1. The director or the director's designee shall, at least one (1) time each year, inspect and test all equipment used to test:

(1) the moisture; and

(2) the foreign material and dockage;

content of grain purchased, sold, or exchanged in Indiana.

Sec. 2. Each piece of equipment that is tested under this chapter and found to be accurate according to rules or standards prescribed by the National Institute of Standards and Technology,

the United States Department of Agriculture, and the department must bear a seal issued by the office of the director that contains the following information:

(1) A statement that the equipment has been tested for accuracy.

(2) The date of inspection.

(3) The expiration date of the seal.

Sec. 3. (a) The director or the director's designee shall charge each inspection site a ten dollar ($10) fee for each moisture testing device inspected at the inspection site under this chapter.

(b) All fees collected under this section must be deposited in the grain buyers and warehouse licensing agency license fee fund established by IC 26-3-7-6.3.

Sec. 4. Money is appropriated to the department to carry out this chapter.

Sec. 5. The department may adopt rules under IC 4-22-2 to administer this chapter.

Sec. 6. The department may:

(1) employ persons;

(2) make expenditures;

(3) require reports and records;

(4) make investigations; and

(5) take other action;

that the department considers necessary or suitable for the proper administration of this chapter.

Sec. 7. A copy of this chapter and the rules adopted under this chapter must be posted in a conspicuous manner at every commercial grain buying site.

Sec. 8. A person who recklessly uses equipment:

(1) to ascertain the moisture and the foreign material and dockage content of grain in the process of commercial buying or selling of grain; and

(2) that does not bear the seal required by section 2 of this chapter;

commits a Class B misdemeanor.

Chapter 9. Center for Value Added Research

Sec. 1. The director shall establish a center for value added research to perform the following duties:

(1) Develop a strategic assessment of Indiana agricultural

industries and establish targeted priorities for industry expansion.

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

(3) Identify and prioritize research development and educational needs for expanding value added opportunities in Indiana.

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

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

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

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

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

Sec. 2. In carrying out its duties under this chapter, the center for value added research shall cooperate with and may use the resources of:

(1) Purdue University and other colleges and universities located in Indiana;

(2) any other state or federal department or agency;

(3) political subdivisions located in Indiana; and

(4) interest groups representing agriculture, business, and industry in Indiana.

Sec. 3. The director may do the following to carry out the duties described in section 1 of this chapter while acting for and on behalf of the center for value added research:

(1) Organize the center in the manner necessary to implement

this chapter.

(2) Execute contractual agreements, including contracts for:

(A) the operation of the center;

(B) the performance of any of the duties described in section 1 of this chapter;

(C) the services of an executive director to serve as the chief operating officer of the center; and

(D) any other services necessary to carry out the duties described in section 1 of this chapter.

(3) Receive money from any source.

(4) Expend money for an activity appropriate to the purposes of this chapter.

(5) Execute agreements and cooperate with:

(A) any other state or federal department or agency;

(B) political subdivisions located in Indiana;

(C) any private person or corporation; or

(D) colleges and universities located in Indiana.

(6) Employ personnel as necessary for the efficient administration of this chapter, subject to the approval of the budget agency.

Sec. 4. (a) The value added research fund is established to provide money for:

(1) the center for value added research; and

(2) the director to carry out the duties specified under this chapter.

(b) The director shall administer the fund.

(c) The fund consists of money appropriated by the general assembly.

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

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Chapter 10. Tobacco Farmers and Rural Community Impact Fund

Sec. 1. As used in this chapter, "advisory board" refers to the tobacco farmers and rural community impact fund advisory board established by section 5 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the tobacco

farmers and rural community impact fund established by section 3 of this chapter.

Sec. 3. (a) The tobacco farmers and rural community impact fund is established. The fund shall be administered by the director. The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of the state fiscal year does not revert to the state general fund and remains available for expenditure.

Sec. 4. (a) Subject to subsection (b), money in the fund shall be used for the following purposes:

(1) Agricultural grant and loan programs to assist cooperative arrangements consisting of tobacco quota owners and tobacco growers working together to change from tobacco production to other agricultural enterprises and to assist individual tobacco quota owners and tobacco growers who are in the process of changing to other agricultural enterprises.

(2) Value added cooperatives, incubators, and other enterprises or facilities established to assist tobacco quota owners and tobacco growers to capture additional revenues from non-tobacco agricultural commodities.

(3) Agricultural mentoring programs, entrepreneurial leadership development, and tuition and scholarships to assist

displaced tobacco growers in acquiring new training and employment skills.

(4) Academic research to identify new transitional crop enterprises to replace tobacco production.

(5) Market facility development for marketing current and new crop enterprises.

(6) Administrative and planning services for local communities and economic development entities that suffer a negative impact from the loss of tobacco production.

(7) Establishment and operation of a regional economic development consortium to address common problems faced by local communities that suffer a negative impact from the loss of tobacco production.

(b) Expenditures from the fund are subject to appropriation by the general assembly and approval by the director. The director may not approve an expenditure from the fund unless that expenditure has been recommended by the advisory board.

Sec. 5. (a) The tobacco farmers and rural community impact fund advisory board is established. The advisory board shall meet at least quarterly and at the call of the director to make recommendations concerning expenditures of money from the fund.

(b) The advisory board consists of the following:

(1) The director, who is an ex officio member and serves as chairperson of the advisory board.

(2) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate.

(3) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house of representatives.

(4) The following appointees by the governor who represent the following organizations or interests:

(A) Two (2) tobacco growers.

(B) One (1) tobacco quota owner.

(C) Two (2) persons with knowledge and experience in state and regional economic development needs.

(D) One (1) person representing small towns or rural communities.

(E) One (1) person representing the Southern Indiana Rural Development Project.

(F) One (1) person representing agricultural programs at universities located in Indiana.

The members of the advisory board listed in subdivisions (1) through (3) are nonvoting members. The members of the advisory board listed in subdivision (4) are voting members.

Sec. 6. (a) The term of office of a legislative member of the advisory board is four (4) years. However, a legislative member of the advisory board ceases to be a member of the advisory board if the member:

(1) is no longer a member of the legislative chamber from which the member was appointed; or

(2) is removed from the advisory board under subsection (b).

(b) A legislative member of the advisory board may be removed at any time by the appointing authority who appointed the legislative member.

(c) The term of office of a member of the advisory board appointed under section 5(b)(4) of this chapter is four (4) years. However, the member serves at the pleasure of the governor and may be removed for any reason.

(d) If a vacancy exists on the advisory board with respect to a legislative member or the members appointed under section 5(b)(4) of this chapter, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy for the balance of the unexpired term.

Sec. 7. Five (5) voting members of the advisory board constitute a quorum for the transaction of business at a meeting of the advisory board. The affirmative vote of at least five (5) voting members of the advisory board is necessary for the advisory board to take action.

Sec. 8. (a) Each member of the advisory board who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the advisory board who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the advisory board who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(d) Payments authorized for members of the advisory board under subsections (a) through (b) are payable from the tobacco farmers and rural community impact fund.

Chapter 11. E85 Fueling Station Grant Program

Sec. 1. As used in this chapter, "E85 base fuel" has the meaning set forth for "E85" in IC 6-6-1.1-103(s).

Sec. 2. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components) consisting of:

(1) a tank;

(2) a pump; and

(3) other components;

that is used by a person engaged in the business of selling motor fuel at retail to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle.

Sec. 3. As used in this chapter, "location" refers to one (1) or more parcels of land that:

(1) have a common access to a public highway; and

(2) are or would appear to the reasonable person making an observation from a public highway to be part of the same business.

Sec. 4. As used in this chapter, "motor vehicle" means any vehicle that:

(1) is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on

a rail or rails); and

(2) has at least four (4) wheels.

Sec. 5. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred after June 30, 2007, to do either of the following:

(1) Purchase any part of a renewable fuel compatible fueling station for the purpose of:

(A) installing the new renewable fuel compatible fuel station at a location on which a fueling station is not located; or

(B) converting an existing fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.

(2) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants.

Sec. 6. As used in this chapter, "renewable fuel compatible" means:

(1) capable of storing and delivering E85 base fuel without contaminants resulting from deterioration from constant contact with alcohol fuels; and

(2) in conformity with applicable governmental standards, if any, and other nationally recognized standards applying to storage and handling of E85 base fuel, as determined under the standards prescribed by the department.

Sec. 7. (a) The department may award a grant under this chapter to a person that:

(1) makes a qualified investment; and

(2) places the qualified investment in service;

in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the department's office of energy and defense development.

Sec. 8. (a) Subject to subsection (b), the department's office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter may not

exceed the lesser of the following:

(1) The amount of the person's qualified investment.

(2) Five thousand dollars ($5,000) for all qualified investments made by the person at a single location.

Sec. 9. The department shall do the following:

(1) Prepare and supervise the issuance of public information concerning the grant program established under this chapter.

(2) Prescribe the form for and regulate the submission of applications for grants under this chapter.

(3) Determine an applicant's eligibility for a grant under this chapter.

Sec. 10. The total amount of grants awarded under this chapter for all state fiscal years may not exceed one million dollars ($1,000,000).

Sec. 11. (a) The E85 fueling station grant fund is established to provide grants under this chapter.

(b) The fund consists of appropriations from the general assembly.

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

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 12. A grant awarded under this chapter is not subject to taxation under IC 6-3-1 through IC 6-3-7.

Sec. 13. A grant awarded under this chapter does not reduce the basis of the qualified property for purposes of determining any gain or loss on the property when the grant recipient disposes of the property.

SECTION 3. IC 15-12 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 12. AGRICULTURAL ASSISTANCE ORGANIZATIONS AND PROGRAMS

Chapter 1. Agricultural Cooperatives

Sec. 1. (a) The following are the purposes of this chapter:

(1) To promote, foster, and encourage the intelligent and orderly production and marketing of agricultural products through cooperation.

(2) To eliminate speculation and waste.

(3) To make the distribution of agricultural products between producer and consumer as direct as can be efficiently done.

(4) To stabilize the marketing of agricultural products.

(5) To provide for the organization and incorporation of agricultural cooperative associations and societies.

(b) The general assembly recognizes the following:

(1) That agriculture is characterized by individual production in contrast to the group or factory system that characterizes other forms of industrial production.

(2) That the ordinary form of corporate organization permits industrial groups to combine for the purpose of group production and the ensuing group marketing.

(3) That the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the manufacturing industries.

(4) That the public interest demands that the farmer be encouraged to attain a superior and more direct system of marketing as an alternative to the blind, unscientific, and speculative selling of crops.

Sec. 2. The definitions in IC 23-1 apply to this chapter to the extent they do not conflict with the definitions in this chapter.

Sec. 3. As used in this chapter, "agricultural products" includes horticultural, viticultural, forestry, dairy, livestock, grain, poultry, bee, and any other farm product.

Sec. 4. As used in this chapter, "association" means any corporation organized under or governed by this chapter.

Sec. 5. As used in this chapter, "member" means the following:

(1) With respect to a nonstock membership association, the term means those persons admitted in accordance with the bylaws of the association.

(2) With respect to an association having capital stock, the term means the holders of voting stock of the association.

Sec. 6. As used in this chapter, "person" includes the following:

(1) Individuals.

(2) Firms.
(3) Partnerships.
(4) Business trusts.
(5) Limited liability companies.
(6) Corporations.
(7) Executors.
(8) Administrators.
(9) Receivers.
(10) Bodies politic or political subdivisions.

Sec. 7. An association organized under or governed by this chapter is a nonprofit corporation within the meaning of this chapter and for purposes of interpreting Indiana law concerning associations organized under or governed by this chapter.

Sec. 8. The following may form an association under this chapter:

(1) Five (5) or more persons engaged in the production of agricultural products.
(2) Two (2) or more associations that:
(A) are:
(i) organized under or governed by this chapter; or
(ii) organized under any other Indiana law or under the laws of any other state or territory of the United States or of the District of Columbia; and
(B) are operated on a cooperative basis for the mutual benefit of the associations' members, members and patrons, or patrons as producers or associations of producers.

Sec. 9. An association may be organized to engage in any activity in connection with the following:

(1) Producing, marketing, or selling the agricultural products of the association's members and others.
(2) Harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping, or use of agricultural products of the association's members and others.
(3) Manufacturing or marketing the byproducts of agricultural products of the association's members and others.
(4) Manufacturing, selling, or supplying machinery, equipment, or supplies to the association's members and others.

(5) Financing activities described in subdivisions (1) through (4).

(6) Performing or furnishing services of an economic or educational nature, on a cooperative basis for persons engaged in agriculture or in any one (1) or more of the activities specified in this section.

Sec. 10. Each association incorporated under this chapter has the following powers:

(1) To engage in any activity in connection with the following:

(A) Producing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or use of any agricultural products produced or delivered to the association by the association's members or others.

(B) Manufacturing or marketing the byproducts of agricultural products produced or delivered to the association by the association's members or others.

(C) Manufacturing, producing, processing, procuring, purchasing, or supplying supplies, machinery, or equipment to the association's members or others.

(D) Financing any activities described in clauses (A) through (C).

(E) Performing or furnishing economic, educational, or other services.

(F) Any one (1) or more of the activities specified in this section.

(2) To transact business with and perform services for nonmembers in an amount not greater in value than the total amount of business transacted with and services performed for members in the same fiscal year.

(3) To borrow money without limitation as to the amount of corporate indebtedness or liability.

(4) To act as the agent or representative of any member or members or others in any of the activities described in subdivisions (1) through (3).

(5) To make advances to members and other persons.

(6) To:

(A) purchase or acquire;

(B) hold, own, and exercise all rights of ownership in;

(C) sell, transfer, or pledge; or

(D) guarantee the payment of dividends or interest on or the retirement or redemption of;

shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing, handling, or marketing of any of the products handled by the association.

(7) To establish and accumulate reserves and surplus.

(8) To:

(A) buy; or

(B) acquire, hold, and exercise all privileges of ownership over;

real and personal property as may be necessary, convenient, or incidental to the conduct and operation of the business and activities of the association.

(9) To:

(A) establish, secure, own, and develop; and

(B) dispose of;

patents, trademarks, and copyrights.

(10) To:

(A) do anything:

(i) necessary or proper for the accomplishment of any one (1) of the purposes or the performance of any one (1) or more of the activities listed in this section; or

(ii) conducive to or expedient for the interest or benefit of the association; and

(B) contract accordingly.

(11) To exercise and possess the following:

(A) All powers, rights, and privileges necessary for or incidental to:

(i) the purposes for which the association is organized; or

(ii) the activities in which the association is engaged.

(B) Any other rights, powers, and privileges granted by Indiana law or to for-profit or nonprofit corporations, except as are inconsistent with the express provisions of this chapter.

(12) To recover, after two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities:

(A) for which the owner cannot be found; and

(B) that are the result of distributable savings of the association returned to the members on a pro rata basis.

Sec. 11. (a) An association may under the terms and conditions prescribed in the bylaws adopted by the association admit as members or issue common and voting stock to any of the following:

(1) The individuals or political subdivisions of Indiana that meet the requirements of subsection (b).

(2) The associations that meet the requirements of subsection (c).

(b) To meet the requirements of this subsection, individuals or political subdivisions must be engaged in the production of agricultural products. For purposes of this section, a lessor or landlord of land used for the production of agricultural products or any individual devoting a substantial part of the individual's time to assisting others to produce agricultural products, whether employed by a farmer, an agricultural cooperative corporation, or an association, is considered to be engaged in the production of agricultural products. Except as otherwise provided in this section, the holders of common stock of an association limited by its articles of incorporation to one (1) or more particular agricultural services must be producers of agricultural products that use the articles or services to which the activities of the association are limited.

(c) An association:

(1) organized under or governed by this chapter or organized under or governed by the agricultural law of another state of the United States; or

(2) that complies with 7 U.S.C. 291 and 7 U.S.C. 292, whether incorporated in or outside the United States, and with acts amendatory or supplementary to 7 U.S.C. 291 and 7 U.S.C. 292;

may become a member or stockholder of any association or associations organized under this chapter. Any corporation, however organized, that is lawfully engaged in the production of agricultural products, either as owner, lessor, or lessee of land used for the production of agricultural products, may become a stockholder or member in any association that is organized under this chapter and for which more than one-half (1/2) of the value of the association's business consists of the patronage of individuals

who are direct producers of agricultural products.

(d) A member of an association organized under this chapter that is not an individual may be represented by any individual authorized to do so in writing by the member.

Sec. 12. (a) The incorporators of an association to be formed under this chapter shall execute and file articles of incorporation setting forth the following:

(1) The name of the proposed association.

(2) The purpose or purposes for which it is formed.

(3) The period during which it is to continue to exist, if the period is to be limited.

(4) The post office address of its principal office and the name and post office address of its resident agents.

(5) If organized without capital stock, whether the property rights and interest of the members are equal or unequal. If property rights and interest of the members are unequal, the articles of incorporation must set forth the provisions under and by which the property rights and interests of the respective members are to be determined and fixed.

(6) The following information, if the association is organized with capital stock:

(A) The total number of shares that the association may issue.

(B) Whether all or part of the shares have a par value.

(C) If all or part of the shares have a par value, the number and par value of the shares.

(D) Whether all or part of the shares are without a par value.

(E) If all or part of the shares are without a par value, the number of shares without a par value.

(F) If the shares are to be divided into classes or kinds:

(i) the number and par value, if any, of the shares of each class; and

(ii) subject to the limitations provided in this chapter with respect to issuance of voting stock, either a statement of the relative rights, preferences, limitations, and restrictions of each class, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations, and

restrictions of each class by resolution or resolutions adopted before the issuance of any shares of the specific class.

(G) If the shares of any class are to be issuable in series:

(i) descriptions of the several series; and

(ii) subject to the limitation provided in this chapter with respect to the issuance of voting stock, a statement of the relative rights, preferences, limitations, and restrictions of each series, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations, and restrictions of each series by resolution or resolutions adopted before the issuance of any of the shares of the specific series.

(7) The number of directors constituting the initial board of directors of the association.

(8) The names and post office addresses of the first board of directors.

(9) The names and post office addresses of the incorporators.

(10) Any other provisions, consistent with Indiana laws, for the regulation of the business and conduct of the affairs of the association and for creating, defining, limiting, or regulating the powers of the following:

(A) The association.

(B) The directors.

(C) The members.

(D) The shareholders of any class or classes of shareholders.

(b) The articles of incorporation must be:

(1) prepared and signed in duplicate by the incorporators;

(2) acknowledged by at least one (1) of the incorporators before a notary public; and

(3) presented in duplicate to the secretary of state at the secretary of state's office and accompanied by the fees prescribed by this chapter.

Sec. 13. (a) Upon presentation of articles of incorporation that comply with the requirements of this chapter, if the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall do the following:

(1) Endorse the secretary of state's approval upon the

duplicate copies of the articles.

(2) When all fees have been paid as required by law:

(A) file one (1) copy of the articles in the secretary of state's office; and

(B) issue a certificate of incorporation to the incorporators.

(3) Return the certificate of incorporation, together with the remaining copy of the articles of incorporation bearing the endorsement of the secretary of state's approval, to the incorporators or their representative.

(b) Upon the issuance of the certificate of incorporation by the secretary of state under subsection (a):

(1) the corporate existence of the association begins;

(2) all subscriptions to membership, subscriptions for shares of the association, or subscriptions to membership and for shares of the association are considered to be accepted by the association; and

(3) the subscribers are considered to be members, shareholders, or members and shareholders of the association.

(c) The certificate of incorporation issued by the secretary of state under this section is conclusive evidence of the fact that the association has been incorporated and of the corporation's right to transact business and to incur indebtedness.

Sec. 14. (a) Subject to subsections (b) and (c), an association may amend the association's articles of incorporation, merge or consolidate with one (1) or more other associations or corporations, effect special corporate transactions as described in IC 23-1, or dissolve by following the procedures specified in IC 23-1.

(b) An amendment to the articles of incorporation of an association organized under or governed by this chapter or an agreement of merger or consolidation to which an association organized under or governed by this chapter is a party may be adopted:

(1) by the affirmative votes of the majority of the members entitled to vote with respect to the amendment or agreement and voting at the meeting called for that purpose, if the voting rights of the members are equal; or

(2) by the affirmative votes of the majority of the votes cast by the members entitled to vote with respect to the amendment or agreement and voting at the meeting called for that

purpose, if the voting rights of the members are not equal.

(c) A special corporate transaction or dissolution of an association organized under or governed by this chapter may be authorized:

(1) by the affirmative votes of three-fourths (3/4) of the members entitled to vote with respect to the transaction or dissolution and voting at the meeting called for that purpose, if the voting rights of the members are equal; or

(2) by the affirmative votes of three-fourths (3/4) of the votes cast by the members entitled to vote with respect to the transaction or dissolution and voting at the meeting called for that purpose, if the voting rights of the members are not equal.

Sec. 15. (a) Each association organized under or governed by this chapter shall, not more than thirty (30) days after the association's incorporation or after the association's acceptance of the requirements of this chapter, adopt a code of bylaws.

(b) The power to adopt, make, alter, amend, or repeal the bylaws is vested in the board of directors, unless specifically provided in the articles of incorporation.

(c) The bylaws may contain any provisions for the regulation and management of the business and affairs of the association that are not inconsistent with the articles of incorporation and the laws of this state, including provisions concerning the following:

(1) The time and place of holding and the manner of calling and conducting meetings of members and directors.

(2) The number of members that constitute a quorum at a meeting of the members.

(3) The number of directors that constitute a quorum at a meeting of the directors.

(4) The right of members to vote by proxy, by mail, or by delegates elected by members in their respective districts, or by any one (1) or more such methods.

(5) The number of directors, their qualifications, the date, time, place, and manner of their election, and the length of their terms of office.

(6) The powers, duties, tenure, and qualifications of officers of the association and the date, time, place, and manner of electing the officers.

(7) The creation and appointment of executive and other committees, and the number of members of the committees and their powers.

(8) The:

(A) amount of entrance, organization, and membership fees, if any;

(B) manner and method of collection of the fees; and

(C) purposes for which the fees may be used.

(9) The:

(A) amount, if any, that each member is required to pay annually or from time to time to carry on the business of the association;

(B) charge, if any, to be paid by each member for services rendered by the association to the member; and

(C) time of payment and manner of collection of the amounts.

(10) The requirements made or imposed on members to enter into contracts with the association for the marketing of the members' products or for the purchasing of the members' supplies, machinery, or equipment, or both.

(11) The following:

(A) Qualifications for membership in the association and the conditions precedent to membership.

(B) The method, time, and manner in which a member can withdraw from membership.

(C) The conditions upon which and the time when the membership of any member ceases.

(D) The automatic suspension of the voting rights of a member when the member ceases to be eligible for membership in the association.

(E) The method, manner, and effect of the expulsion of a member.

(F) The manner of determining the value of a member's interest or shares:

(i) when the member is expelled; or

(ii) upon the member's death or withdrawal from membership.

(G) The manner in which the interest or shares of a member can be transferred or assigned.

(H) The time and manner in which a member's interest or shares may be redeemed by the association.

(12) Penalties for violation of the bylaws.

Sec. 16. (a) Each association shall provide in the association's bylaws for one (1) or more regular meetings annually.

(b) The board of directors of an association may call a special meeting at any time.

(c) Ten percent (10%) of the members or stockholders of an association may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. If the requirements of this subsection are satisfied, the directors of the association shall call the special meeting.

(d) Notice of all meetings, together with a statement of the purposes of the meeting, shall be mailed to each member at least ten (10) days before the meeting. However, the association's bylaws may instead provide that the notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

Sec. 17. (a) The business and affairs of an association shall be managed by a board of directors of at least five (5) directors. Subject to this limitation, unless specifically provided in the articles of incorporation, the number of directors shall be fixed by the bylaws, except as to the number constituting the initial board of directors. The number constituting the initial board of directors shall be fixed by the articles of incorporation.

(b) The number of directors may be increased or decreased from time to time by amendment of the bylaws, but a decrease in the number of directors may not shorten the term of an incumbent director. In the absence of articles of incorporation or bylaws that fix the number of directors, the number of directors must be the same as stated in the articles of incorporation for the initial board of directors.

Sec. 18. Except as otherwise provided in this chapter, the directors:

(1) shall be elected by the members at the annual meeting of the members; and

(2) may, if provided in the bylaws, be elected for terms of office that expire at different times.

A term of office may not continue for longer than three (3) years.

In the absence of a provision in the bylaws for terms of office, each director, except the first board of directors, shall be elected for a term of one (1) year and hold office until the director's successor is elected and qualified. The first board of directors, as named in the articles of incorporation, shall hold office until the first annual meeting of the members.

Sec. 19. The territory served by an association may be divided into districts and the directors elected according to districts. In this case, the bylaws must specify:

(1) the number of directors to be elected in each district; and

(2) the manner and method of reapportioning the directors and of redistricting the territory served by the association.

The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to the district and that the result of the primary elections may be ratified by the members at the next annual or special meeting of the members of the association or may be considered as final.

Sec. 20. One (1) or more directors may be appointed by any public official or commission or by the other directors elected by the members or their delegates. Directors appointed as provided in this section:

(1) shall represent primarily the interest of the general public in the association, but have the same powers and rights as other directors; and

(2) may not total more than one-fifth (1/5) of the entire number of directors.

Sec. 21. (a) An association may provide a fair remuneration for:

(1) the time actually spent by the association's officers and directors in the association's service; and

(2) the service of the members of the association's executive committee and other committees.

(b) A director may not during the term of the director's office be a party to a contract for profit with the association differing in any way from the business relations accorded other members or patrons of the association.

Sec. 22. If the association's bylaws provide for an executive committee, all of the functions and powers of the board of directors may be delegated to the committee, subject to the general direction and control of the board.

Sec. 23. When a vacancy on the board of directors occurs, other than by expiration of term of office, the remaining members of the board may fill the vacancy by a majority vote of the remaining members, unless the bylaws provide for the election of directors by districts. If the bylaws provide for the election of directors by districts, the board of directors may call a special meeting of the members in that district to fill the vacancy or may fill the vacancy as in the case of any other vacancy. A director who is elected or appointed by the board of directors to fill a vacancy on the board shall serve until the next annual or special meeting of the members.

Sec. 24. (a) Each director must during the director's term of office be a citizen of the United States. Each director, other than a public director, must be engaged in or have a direct interest in the production of agricultural products.

(b) An association may provide in the association's bylaws that a person is not eligible for election as a director unless the person is a member or patron of the association.

(c) An association may provide in the association's bylaws that a person is not eligible for election as a director unless the person has paid any indebtedness owed by the person to the association.

Sec. 25. (a) The board of directors shall require a report to be presented to the board, at intervals determined by the board but not less often than semiannually, showing:

(1) the amount of indebtedness owed to the association by each director, officer, and employee at the close of the period; and

(2) the amount of stock, membership capital, or credits for the purchase of stock or membership capital shown on the books of the association as belonging to each director, officer, and employee.

The board of directors shall take action with respect to any individual indebtedness to the association that is larger than permitted by the bylaws as is best for the association in the sound discretion of the board.

(b) The board of directors shall require a record of attendance to be kept and the secretary of the board to make a report at the annual meeting of members detailing the directors' attendance up to and including the last directors' meeting before the annual meeting, indicating:

(1) the number of regular and special meetings of the board; and

(2) the number of regular and of special meetings attended by each member of the board designated by name.

Sec. 26. (a) An association may provide in the association's bylaws limits within which the association may extend credit, either directly or indirectly, to any director, officer, or employee of the association.

(b) A person who is a director, officer, or employee of the association may not be extended credit on terms that are more favorable than the terms available to any other customer or member of the association.

(c) The provisions of this chapter:

(1) concerning the extension of credit to any director, officer, or employee;

(2) requiring the inclusion of information concerning the extension of credit to any director, officer, or employee in the association's annual reports to the secretary of state; and

(3) providing penalties for failure to comply with those provisions;

apply only to associations in which more than twenty-five percent (25%) of the gross income arises directly from the purchasing of supplies for their members and others. An association with a lesser percentage of gross income arising from purchasing of supplies may adopt similar provisions in the association's articles of incorporation as originally filed or later amended. If adopted, the provisions apply in every respect to the association and to the association's directors, officers, and employees.

Sec. 27. (a) The officers of an association must consist of a president, one (1) or more vice presidents, a secretary, a treasurer, and other officers that may be prescribed by the bylaws. Each officer shall be elected or appointed by the board of directors at the time, in the manner, and for the terms as the bylaws provide, subject to the following conditions:

(1) The president and one (1) vice president must be members of the board of directors.

(2) A vice president who is not a director may not succeed to or fill the office of president.

(b) Except for the offices of the president and secretary, any two

(2) or more offices may be held by the same individual.

(c) The treasurer may be a bank or depository. If the treasurer is a bank or depository:

(1) the treasurer is considered to be a function of the board of directors but not an officer of the board of directors; and

(2) the secretary shall perform the usual accounting duties of the treasurer.

However, the funds of the association must be deposited only as and where authorized by the board of directors.

(d) The bylaws may provide for the election of the president and one (1) vice president by the members or their delegates at the annual meeting of the members.

Sec. 28 (a) A certificate of membership or a share or shares of voting stock may not be issued by an association until the membership fee or consideration for the share of stock has been paid in full. A promissory note may be accepted in full or partial payment for a share of stock or membership fee. However, the stock or membership certificate shall be held as security for the payment of the note. The acceptance of a note in full or partial payment of a share of stock or membership fee does not affect the member's right to vote if the member is not in default under the terms of the note.

(b) A member is not liable for the debts of the association to an amount exceeding the sum remaining unpaid on the member's membership fee or on the member's subscription or agreement to purchase a share or shares of stock, including any unpaid balance on any note given in payment.

(c) An association may provide in the association's articles of incorporation or bylaws that a member may not own more than a fixed amount or percentage of the association's membership capital or a fixed percentage or number of shares of the association's outstanding voting stock.

Sec. 29. (a) An association may provide in the association's articles of incorporation or bylaws that a member is not entitled to more than one (1) vote regardless of the amount of capital invested in or number of shares of voting stock owned by the member.

(b) The voting stock of or membership in an association may not be transferred to persons or associations that are not qualified to be members of an association organized under or governed by this

chapter, and this restriction must be printed on every membership certificate and certificate of voting stock.

Sec. 30. (a) The net earnings or savings of an association from the association's marketing activities, purchasing activities, or marketing and purchasing activities that exceed the amounts needed to restore a deficit, to pay dividends on outstanding stock, or to establish or provide for additions to reserves or surplus, or both, must be distributed, unless otherwise provided by the bylaws, to the patrons of the association on a patronage basis. If provided in the bylaws, the distribution of the net earnings or savings from the marketing activities, purchasing activities, or marketing and purchasing activities that exceed the amounts needed to restore a deficit, to pay dividends on outstanding stock, or to establish or provide for additions to reserves or surplus, or both, may be made at different rates for members and nonmembers, or may be restricted only to members, or only to members and those patrons with whom the association has contracted to pay patronage refunds, but all the distributions must be made on a patronage basis.

(b) If the reserves or surplus of an association are distributed at any time, the reserves or surplus must be distributed on a patronage basis as provided by the bylaws of the association.

Sec. 31. (a) An association organized with capital stock may, at any time, unless otherwise provided in the association's articles of incorporation or bylaws, and except when the debts of the association exceed fifty percent (50%) of the assets:

(1) redeem, purchase, or acquire the association's outstanding common stock at the book value, as conclusively determined by the association's board of directors, but not to exceed par; and

(2) pay for the stock in cash within one (1) year.

(b) An association organized with capital stock may, at any time, unless otherwise provided in its articles of incorporation or bylaws, redeem, purchase, or acquire the association's outstanding preferred stock. However, an association may not redeem or purchase the association's outstanding preferred stock:

(1) when the association is insolvent; or

(2) when the redemption or purchase would render the association insolvent or would reduce the net assets of the

association below the total amount payable to the holders of stock having prior or equal rights to the assets of the association upon involuntary dissolution.

Sec. 32. (a) If the board of directors of an association, under authority expressly vested in the board by the articles of incorporation, adopts a resolution that determines and states the relative rights, preferences, limitations, or restrictions of any class or classes of shares, or of any series of any class or classes, the association may not issue any of such shares unless the association first presents in duplicate in the office of the secretary of state, accompanied by the fees prescribed by this chapter, a certificate signed by the secretary or assistant secretary, and verified under oath by the president or a vice president of the association, setting forth the resolution so adopted and the time and manner of its adoption.

(b) Upon presentation of a certificate under subsection (a), the secretary of state, if the secretary of state finds that the certificate conforms to law and to the articles of incorporation of the association:

(1) shall endorse the secretary of state's approval on each copy of the certificate; and

(2) when all fees have been paid as required by law, shall:

(A) file one (1) copy of the certificate in the secretary of state's office;

(B) issue the secretary of state's certificate of approval and filing; and

(C) forward to the association the secretary of state's certificate, together with the other copy of the certificate of the officers of the association bearing the endorsement of the secretary of state's approval.

After the secretary of state takes the actions under subdivisions (1) and (2), the association may issue the shares.

Sec. 33. (a) A member of an association may bring charges against an officer or a director by filing the charges in writing with the secretary of the association, together with a petition that is signed by five percent (5%) of the members and that requests the removal of the officer or director.

(b) The removal of the officer or director shall be voted upon at the next regular or special meeting of the association. The

association may by a vote of a majority of the members of the association remove the officer or director and fill the vacancy.

(c) The director or officer against whom the charges have been brought must:

(1) be informed in writing of the charges before the meeting described in subsection (b); and

(2) have an opportunity at the meeting to be heard in person or by counsel and to present witnesses.

The person or persons bringing the charges against the director or officer are entitled to the same opportunity to be heard in person or by counsel and to present witnesses.

(d) If the bylaws provide for the election of directors by districts with primary elections in each district, a petition for removal of a director must be signed by twenty percent (20%) of the members residing in the district from which the director was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director. The director in question may be removed from office by a vote of the majority of the members of that district.

Sec. 34. (a) An association and its members may make and execute marketing contracts requiring the members to sell, for any period that is not more than ten (10) years:

(1) all or any specified part of the members' agricultural products; or

(2) specified commodities;

exclusively to or through the association or any facilities to be created by the association.

(b) If a member contracts a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association:

(1) upon delivery; or

(2) at any other specified time, if expressly and definitely agreed in the contract.

(c) A contract authorized under this section may provide that the association may:

(1) sell or resell the products delivered by the association's members, with or without taking title to the products; and

(2) pay over to the association's members the resale price, with or without pooling, actual or proportionate, after

deducting all necessary selling, overhead, and other costs and expenses, including:

(A) interest on preferred stock, not exceeding eight percent (8%) per year;

(B) reserves for retiring the stock, if any;

(C) other proper reserves;

(D) interest not exceeding eight percent (8%) per year on common stock; and

(E) any other deductions specified in the contract.

Sec. 35. (a) The bylaws or a marketing contract of an association may do the following:

(1) Fix, as liquidated damages, specific amounts to be paid by the members or stockholders to the association upon the breach of any provision of the marketing contract regarding the sale, delivery, or withholding of products.

(2) Provide that the contracting member will pay all costs, premiums for bonds, expenses, and fees if any action is brought upon the contract by the association.

A provision described in this subsection is valid and enforceable, and a clause providing for liquidated damages is enforceable and is not regarded as a penalty.

(b) If there is a breach or threatened breach of a marketing contract regarding the sale, delivery, or withholding of products by a member, the association is entitled to:

(1) an injunction to prevent the further breach of the contract; and

(2) a decree of specific performance of the contract.

(c) Pending the adjudication of an action under subsection (b) and upon:

(1) filing a verified complaint showing the breach or threatened breach; and

(2) filing a sufficient bond;

the association is entitled to a temporary restraining order and preliminary injunction against the member.

(d) Subsections (a), (b), and (c) are applicable to, and the rights and remedies described in subsections (a), (b), and (c) are available to, any corporation that is organized under any agricultural cooperative law of any other state of the United States and is admitted to do business in Indiana.

(e) A grower of agricultural products that signs a marketing agreement with a cooperative marketing association organized under this chapter is permitted to place crop mortgages on the grower's crops. However, the crop mortgages and other liens are subordinate to the right of the association to take delivery of any such crops covered by the marketing agreement. In such cases, if the mortgagee or lien holder serves proper notice on the association, the proportionate proceeds due or payable to that grower become subject to the mortgages or liens instead of the crops originally covered by the mortgages or liens. If any deficiency remains at the end of the season, the grower is liable for the deficiency under the present practice, and the mortgagee or lienholder has the same rights against the grower for the deficiency as the grower possesses.

Sec. 36. If an association that is organized under or governed by this chapter with capital stock purchases:

(1) the stock;

(2) any property; or

(3) any interest in any property;

of any person, firm, corporation, or association, the association may discharge the obligations incurred in the purchase, wholly or in part, by exchanging for the acquired interest, shares of the association's capital stock to an amount that at par value would equal the fair market value of the stock or interest purchased, as determined by the board of directors. In that case, the transfer to the association of the stock or interest purchased must be equivalent to payment in cash for the shares of stock issued.

Sec. 37. (a) During April of every other year, each association organized or reorganized under this chapter shall prepare and file a biennial report setting forth the following information:

(1) The name of the association and the state or country under whose law the association is incorporated.

(2) The address of the association's registered office and the name of the association's registered agent at that office in Indiana.

(3) The address of the association's principal office.

(4) The names and business or residence addresses of the association's directors, secretary, and highest executive officer.

(b) The biennial report of each association must be:

(1) made on a form prescribed and furnished by the secretary of state;

(2) signed by any current officer of the association or, if the association is in the hands of a receiver or a trustee, by the receiver or trustee;

(3) verified and affirmed subject to the penalties for perjury; and

(4) filed in the office of the secretary of state, accompanied by the fees prescribed by law.

(c) Information in the biennial report must be current as of the date the biennial report is executed on behalf of the association.

(d) The first biennial report of the association must be delivered to the secretary of state in the second year following the calendar year in which the association was organized. Subsequent biennial reports must be delivered to the secretary of state every second year following the year in which the last biennial report was filed.

Sec. 38. (a) If, upon receipt of a biennial report delivered under section 37 of this chapter, the secretary of state determines or has reason to believe that the association filing the report is not disclosing the association's true financial condition or is violating this chapter, the secretary of state may require the association to disclose all material facts by:

(1) submitting a verified audit bearing the certificate under oath of a qualified public accountant approved by the secretary of state;

(2) replying to interrogatories; or

(3) reporting under oath on any matters requested by the secretary of state.

(b) An officer or a director of an association who knowingly distributes, publishes, or files with the secretary of state a written report, certificate, or statement of the condition or business of the association that is false in any material respect commits a Class D felony.

Sec. 39. A law in conflict with this chapter may not be construed to apply to an association provided for in this chapter.

Sec. 40. A person, or a firm, a limited liability company, a corporation, or an association organized in Indiana after February 23, 1925, may not use the word "cooperative" as part of its

corporate or other business name or title for cooperative activities of producers of agricultural products unless it has complied with this chapter.

Sec. 41. An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any corporation or corporations, or association or associations, with or without capital stock, that are engaged in:

(1) any activity in connection with the producing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, transportation, handling, or use of any:

(A) agricultural products; or

(B) byproducts of any agricultural products;

handled by the association or the association's patrons;

(2) any activity in connection with the manufacturing, assembling, selling, supplying, purchasing, hiring, transportation, or use of supplies, machinery, or equipment that the association or the association's patrons use; or

(3) the financing of any activities described in subdivision (1) or (2) or in performing or furnishing economic or educational service for persons engaged in agriculture.

Sec. 42. (a) An association may, upon resolution adopted by the association's board of directors:

(1) enter into all necessary and proper contracts and agreements; and

(2) make all necessary and proper stipulations, agreements, and contracts and arrangements with any other cooperative corporation, association, or associations formed in Indiana or in any other state;

for the cooperative and more economical performance of all or any part of the association's business.

(b) Any two (2) or more associations may, by agreement between them:

(1) unite in employing and using; or

(2) separately employ and use;

the same personnel, methods, means, and agencies for carrying on and conducting the associations' respective businesses.

Sec. 43. (a) A corporation or an association organized under statutes in effect before February 23, 1925, may by a majority vote

of its stockholders or members, may elect to be governed by this chapter by:

(1) limiting its membership; and

(2) adopting the other restrictions provided in this chapter.

(b) The corporation or association shall make out in duplicate a statement signed and sworn to by its directors specifying that the corporation or association has, by a majority vote of the stockholders or members:

(1) decided to accept the benefits of and be bound by this chapter; and

(2) authorized the changes.

Articles of incorporation must be filed as required in section 12 of this chapter, except that the articles of incorporation must be signed by the current members of the board of directors. The filing fee is the same as for filing an amendment to articles of incorporation.

Sec. 44. A person or corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association:

(1) organized under this chapter; or

(2) organized under any agricultural cooperative law of any other state of the United States and admitted to do business in Indiana;

to breach the member's or stockholder's marketing contract with the association is liable to the aggrieved association in a civil suit in the penal sum of one hundred dollars ($100) for each offense. In addition, the person or corporation shall pay to the association reasonable attorney's fees and all costs involved in the litigation or proceedings at law.

Sec. 45. (a) A person, firm, limited liability company, or corporation that:

(1) operates a warehouse, an elevator, or other receiving place or deals in any agricultural products within Indiana; and

(2) solicits, persuades, or permits any member of an association:

(A) organized under this chapter; or

(B) organized under any agricultural cooperative law of any other state of the United States and admitted to do business in Indiana;

to breach the member's marketing contract with the association by accepting or receiving the member's products for sale, for auction, or for display for sale, contrary to the terms of a marketing agreement of which the person, a member of the firm, the manager of the limited liability company, or an active officer or manager of the corporation has knowledge or notice;

is liable to the aggrieved association in a civil suit in the penal sum of one hundred dollars ($100) for each offense, and the aggrieved association is entitled to an injunction against the warehouseman or other person to prevent further breaches and a multiplicity of actions on the breach.

(b) Pending the adjudication of an action under subsection (a) and upon filing:

(1) a verified complaint showing the breach or threatened breach of a marketing contract by reason of any acts described in subsection (a); and

(2) a sufficient bond or undertaking;

the aggrieved association is entitled to a temporary restraining order and a temporary injunction against the person, firm, limited liability company, or corporation. In addition, the warehouseman or other person, firm, limited liability company, or corporation shall pay to the association reasonable attorney's fees and all costs involved in the litigation or legal proceedings.

Sec. 46. (a) An association that is organized under this chapter or that is organized under an agricultural cooperative law of another state and is admitted to do business in Indiana is not:

(1) a conspiracy or a combination in restraint of trade;

(2) an illegal monopoly; or

(3) an attempt to:

(A) lessen competition;

(B) fix prices arbitrarily; or

(C) create a combination or pool;

in violation of any Indiana law.

(b) The marketing contracts and agreements between an association described in subsection (a) and the association's members and any agreements authorized in this chapter are not:

(1) illegal;

(2) in restraint of trade; and

(3) contrary to any law enacted against pooling or combinations.

Sec. 47. IC 23-1 and all powers and rights under IC 23-1 apply to associations organized under or governed by this chapter, except where IC 23-1 conflicts with or is inconsistent with this chapter.

Sec. 48. (a) The secretary of state shall charge and collect for the benefit of the state the following fees:

(1) For filing with the secretary of state the articles of incorporation of an association organized or a corporation reorganized under this chapter providing for the issuance of membership certificates only and not for certificates of stock, five dollars ($5).

(2) For filing with the secretary of state articles of incorporation of an association organized or a corporation reorganized under this chapter providing for the issuance of capital stock not in excess of five thousand dollars ($5,000) of par value, five dollars ($5). If the capital stock authorized to be issued by the association exceeds five thousand dollars ($5,000), one cent ($0.01) for each one hundred dollars ($100) of additional par value.

(3) For filing with the secretary of state a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars ($5,000) of par value, five dollars ($5), and for each one hundred dollars ($100) of par value of increase above five thousand dollars ($5,000), one cent ($0.01).

(4) For filing with the secretary of state any certificate not specified in this section, five dollars ($5) each, regardless of the number of amendments contained in the certificate, with the exception of increases of capital stock, the fee for which is as provided in subdivision (3).

(5) For filing biennial or special reports of associations, two dollars ($2) for each filing, which is in addition to any other fees specified in this section. The biennial report filing fee is one dollar ($1) per year, to be paid biennially.

(6) For filing a designation of or change of resident agent for any association, one dollar ($1).

(7) For each certificate issued by the secretary of state, one dollar ($1), and for each impression of the seal of the state of

Indiana affixed by the secretary of state on the certificate, fifty cents ($0.50).

(b) Fees collected under subsection (a) shall be deposited in the state general fund.

Sec. 49. (a) Any nonprofit cooperative association organized under the agricultural cooperative law of any state of the United States other than Indiana and not admitted to do business in Indiana before March 12, 1935, must submit the following to the secretary of state at the secretary of state's office before transacting any business in Indiana:

(1) A copy of the nonprofit cooperative association's articles of incorporation, with all amendments to the articles of incorporation. The copy of the nonprofit cooperative association's articles of incorporation must be authenticated by the proper officer of the state where the nonprofit cooperative association is incorporated.

(2) An application for admission, which must contain the same information as required in the articles of incorporation of an association seeking to be incorporated under this chapter, together with any additional information that the secretary of state may require, which must include a statement of assets and liabilities as of a date not earlier than thirty (30) days before the filing of the application for admission. The information shall be submitted in triplicate originals on forms prescribed by the secretary of state.

(3) The prescribed fees.

(b) An application submitted under subsection (a) must be signed and verified under oath by:

(1) the president or vice president; and

(2) the secretary or assistant secretary;

of the association.

(c) Except for a fee calculated on the basis of capital or capital stock, which must be calculated on the proportion of the capital or capital stock represented in Indiana, the fees described in this section must equal the fees that would be required if the applicant were seeking to be incorporated under this chapter. However, the fee may not be less than ten dollars ($10).

Sec. 50. (a) If the secretary of state finds that an application for admission submitted under section 49 of this chapter conforms to

law and that all patrons of the association who reside in Indiana will be entitled to receive substantially the same rights, benefits, and privileges from the association as though the association were incorporated under this chapter, the secretary of state shall:

(1) endorse the secretary of state's approval upon each of the triplicate copies; and

(2) if all fees required by law have been paid:

(A) file one (1) copy of the application for admission and an authenticated copy of the articles of incorporation of the association in the secretary of state's office; and

(B) issue to the association an original and a duplicate certificate of admission, accompanied by two (2) copies of the application bearing the endorsement of the secretary of state's approval.

(b) A certificate of admission issued under subsection (a) must set forth the following:

(1) The name of the association, the state where the association was incorporated, and the location of the association's principal office in that state.

(2) The character of business the association is authorized to transact in Indiana.

(3) The amount of the association's authorized capital stock, if any, and the amount of capital stock issued and outstanding.

(4) The amount of the fee paid for the association's admission.

(5) The address of the corporation in Indiana.

(6) The name and address of the association's resident agent in Indiana for service of legal process.

Sec. 51. Any nonprofit cooperative association organized under the agricultural cooperative law of another state and admitted to do business in Indiana:

(1) may transact business as set forth in the certificate of admission issued to the association by the secretary of state;

(2) has the same rights, privileges, powers, and remedies at law or in equity possessed by an association incorporated under this chapter; and

(3) is subject to the same liabilities, restrictions, duties, and penalties imposed on an association incorporated under this chapter.

Sec. 52. Certificates of stock or of membership issued,

transferred, redeemed, or canceled by an association are governed by this chapter and the articles of incorporation and bylaws of the association.

Chapter 2. Indiana Rural Rehabilitation Corporation

Sec. 1. As used in this chapter, "director" means the director of the department of agriculture.

Sec. 2. The director is designated as the state official to make application to and receive from the United States Secretary of Agriculture, or any other proper federal official, under and subject to Public Law 499, 81st Congress, approved May 3, 1950, the trust assets, either funds or property, held by the United States as trustee on behalf of the Indiana rural rehabilitation corporation.

Sec. 3. (a) The director may enter into agreements with the United States Secretary of Agriculture under Section 2(f) of Public Law 499, 81st Congress, upon the terms and conditions and for periods as may be mutually agreeable, authorizing the United States Secretary of Agriculture to accept, administer, expend, and use in Indiana all or any part of the trust assets or any other funds of the state of Indiana that may be appropriated to use in carrying out the purposes of Titles 1 and 2 of the Bankhead-Jones Farm Tenant Act, in accordance with the applicable provisions of Title 4 of the Bankhead-Jones Farm Tenant Act, as amended.

(b) The director shall provide in an agreement with the United States Secretary of Agriculture under this section:

(1) that all of the funds shall be administered through the Farmer's Home Administration;

(2) that only three percent (3%) of the book value of the assets transferred may be used for administrative purposes; and

(3) that the Farmer's Home Administration may do any and all things necessary to effectuate and carry out the purposes of agreements under this section.

Sec. 4. Notwithstanding any other law, funds and the proceeds of the trust assets that are not authorized to be administered by the United States Secretary of Agriculture under section 3 of this chapter shall be received by the director under an application made under section 2 of this chapter. The director shall deposit the funds with the treasurer of state. The funds shall be held in a special fund for expenditure on proper voucher and warrant by the director for purposes of section 3 of this chapter.

Sec. 5. (a) The director may do the following:

(1) Collect, compromise, adjust, or cancel claims and obligations arising out of or administered under:

(A) this chapter; or

(B) any mortgage, lease, contract, or agreement entered into or administered under this chapter.

(2) If in the director's judgment it is necessary and advisable, pursue a claim or an obligation described in subdivision (1) to final collection in any court having jurisdiction.

(3) Bid for and purchase at any execution, foreclosure, or other sale or otherwise acquire property:

(A) on which the director has a lien by reason of a judgment or execution; or

(B) that is pledged, mortgaged, or conveyed to secure or that otherwise secures any loan or other indebtedness owing to or acquired by the director under this chapter.

(4) Accept title to any property purchased or acquired under this section, operate or lease the property for a period considered necessary to protect the investment in the property, and sell or dispose of the property in a manner consistent with this chapter.

(b) The authority under this section shall be delegated by the director to the United States Secretary of Agriculture with respect to funds or assets authorized to be administered and used by the director under agreements entered into under section 3 of this chapter.

Sec. 6. The United States and the United States Secretary of Agriculture may not be held liable for the transfer of assets to the director under this chapter.

Chapter 3. Repurchase of Farm or Industrial Machinery Inventory

Sec. 1. (a) This chapter applies to the following:

(1) Contracts that may be terminated or altered at will.

(2) Contracts formed or renewed after June 30, 1989.

(b) This chapter may not be construed to impair the obligation of a contract in violation of Article 1, Section 24 of the Constitution of the State of Indiana.

(c) This chapter does not affect a security interest that a wholesaler, manufacturer, or distributor may have in a retailer's

inventory.

Sec. 2. As used in this chapter, "all terrain vehicle" means a motorized, off-highway vehicle that:

(1) is fifty (50) inches or less in width;

(2) has a dry weight of six hundred (600) pounds or less;

(3) is designed for travel on at least three (3) low pressure tires;

(4) is designed for operator use only with no passengers;

(5) has a seat or saddle designed to be straddled by the operator; and

(6) has handlebars for steering control.

The term includes parts, equipment, or attachments sold with the vehicle.

Sec. 3. As used in this chapter, "current net price" means:

(1) the price listed by a wholesaler, manufacturer, or distributor of inventory in effect at the time a contract is terminated; minus

(2) an applicable trade or cash discount.

Sec. 4. (a) As used in this chapter, "farm or industrial machinery" means any of the following:

(1) A farm implement.

(2) A tractor.

(3) Farm machinery.

(4) Utility and industrial equipment.

(5) Construction machinery, including a track and wheel tractor, a motor grader, and an excavator.

(6) An attachment or repair part for a machine listed in subdivisions (1) through (5).

(b) The term does not include an all terrain vehicle.

Sec. 5. As used in this chapter, "inventory" means farm or industrial machinery held by a retailer.

Sec. 6. As used in this chapter, "net cost" means:

(1) the price a retailer paid to a wholesaler, manufacturer, or distributor for inventory; minus

(2) any discounts, retainage, and prepaid freight or return freight.

Sec. 7. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, a trust, or an unincorporated association.

Sec. 8. (a) As used in this chapter, "retailer" means a person engaged in the business of selling, at retail, farm or industrial machinery.

(b) The term does not include a retail seller of:

(1) petroleum products, if the sale of petroleum products is the primary purpose of the retail seller's business;

(2) motor vehicles (as defined in IC 9-13-2-105(a)); or

(3) automotive care and replacement products.

(c) The term includes the heirs, personal representative, guardian, or receiver of a retailer.

Sec. 9. As used in this chapter, "retainage" refers to various purchase, invoice, and other discounts held by the supplier and due the retailer at a later time.

Sec. 10. (a) Upon the termination of a written or an unwritten contract between a retailer and a wholesaler, manufacturer, or distributor of farm or industrial machinery under which the retailer had agreed to maintain an inventory, the wholesaler, manufacturer, or distributor shall repurchase the inventory of the retailer under section 11 of this chapter.

(b) If the retailer has an outstanding debt to the wholesaler, manufacturer, or distributor, the amount to be paid in repurchase of the inventory may be credited to the retailer's account.

(c) The requirement under subsection (a) that a wholesaler, manufacturer, or distributor repurchase inventory does not apply when a contract is terminated based upon:

(1) the conviction of the retailer (or a principal owner or operator of the retailer) of an offense involving theft, dishonesty, or false statement; or

(2) a fraudulent misrepresentation by the retailer to the wholesaler, manufacturer, or distributor that is material to the contract.

Sec. 11. (a) Except as provided in section 14 of this chapter, a wholesaler, manufacturer, or distributor shall repurchase farm or industrial machinery that:

(1) the retailer previously purchased from the wholesaler, manufacturer, or distributor; and

(2) the retailer held as inventory on the date of the termination of the contract.

(b) For purposes of subsection (a)(1), proof of purchase from the

supplier may include retail invoices from the supplier or a reference to an item in a current or past supplier price book.

Sec. 12. (a) The price for a repurchase under this chapter must equal the sum of:

(1) one hundred percent (100%) of the net cost of all new, unsold, undamaged, and complete farm or industrial machinery (except repair parts); plus

(2) one hundred percent (100%) of the current net price of all new, unused, and undamaged repair parts.

(b) Except as provided in subsection (c), a wholesaler, manufacturer, or distributor that is required to repurchase farm or industrial machinery from a retailer under this chapter shall pay freight charges incurred in shipping the farm or industrial machinery (except repair parts) back to the wholesaler, manufacturer, or distributor.

(c) A retailer shall pay freight charges incurred in shipping repair parts that are repurchased under this chapter back to the wholesaler, manufacturer, or distributor.

(d) A retailer is responsible for the packaging of all farm or industrial machinery that is repurchased from the retailer under this chapter in preparation for the shipment of the machinery back to the wholesaler, manufacturer, or distributor.

Sec. 13. Upon the payment to the retailer of the repurchase price under section 12 of this chapter, the title to the inventory passes to the wholesaler, manufacturer, or distributor.

Sec. 14. This chapter does not require the repurchase of any of the following:

(1) A repair part that has a limited storage life or is subject to deterioration, including rubber items, gaskets, batteries, solvents, and lubricants.

(2) A single repair part that is priced as a set of two (2) or more items.

(3) Inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer, or distributor, of clear title, free and clear of all claims, liens, and encumbrances.

(4) Inventory that the retailer desires to keep, provided the retailer has a contractual right to keep the inventory.

(5) Inventory that is not in a new, unused, and undamaged

condition.

(6) Inventory that was ordered by the retailer on or after the date of notification of termination of the contract.

(7) Inventory that was acquired by the retailer from a source other than the wholesaler, manufacturer, or distributor.

(8) Complete farm and industrial machinery, except repair parts, that was purchased at least thirty-six (36) months before the date of termination.

(9) A repair part that is in a broken or damaged package, if the package is necessary for the resale of the repair part to a customer by a retailer.

Sec. 15. A wholesaler, manufacturer, or distributor that fails or refuses to repurchase inventory as required under this chapter within ninety (90) days after the termination of a contract is liable in a civil action to the retailer for:

(1) one hundred percent (100%) of the current net price of repair parts;

(2) one hundred percent (100%) of the net cost of all other inventory;

(3) the retailer's reasonable attorney's fees;

(4) court costs; and

(5) interest on the amounts determined under subdivisions (1) through (2), computed at a simple interest rate that is set by the court at not less than six percent (6%) per year and not more than ten percent (10%) per year, and beginning to accrue on the sixty-first day after the termination of the contract.

Sec. 16. (a) If a retailer:

(1) is an individual who dies or is incapacitated; or

(2) is a corporation that becomes insolvent;

the retailer's heirs, personal representative, guardian, or receiver may compel a wholesaler, manufacturer, or distributor to repurchase the retailer's inventory under this chapter as if the retailer's contract had terminated.

(b) The retailer's heirs, personal representative, guardian, or receiver must exercise the right provided by this section not later than one hundred eighty (180) days after the retailer's death, incapacitation, or insolvency. However, this section does not require the repurchase of inventory if the heirs, personal

representative, guardian, or receiver enters into a new contract with the wholesaler, manufacturer, or distributor.

Sec. 17. A retailer, wholesaler, manufacturer, or distributor may, in person or through a representative, inspect all inventory and certify its acceptability when it is packed for shipment to the wholesaler, manufacturer, or distributor for repurchase under this chapter.

Chapter 4. Mediation Program

Sec. 1. The following definitions apply throughout this chapter:

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

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

Sec. 2. The director may establish a program under 7 U.S.C. 6991 et seq. (the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994) to provide procedures for mediating adverse decisions by agencies of the United States Department of Agriculture.

Sec. 3. The remediation program may be certified by the United States Department of Agriculture.

Sec. 4. The director may apply to the Secretary of the United States Department of Agriculture for financial assistance for the operation and administration of the remediation program.

Sec. 5. The director may adopt rules under IC 4-22-2 that are necessary to administer the remediation program.

Sec. 6. (a) The director must approve each mediator who serves in the remediation program.

(b) Before a mediator may be approved, the director shall provide adequate training to the mediator to ensure that the mediator:

(1) has a reasonable expertise in agriculture, including a basic understanding of federal and state agricultural programs; and

(2) is not biased, prejudiced, or personally interested in the outcome of a proceeding.

Chapter 5. Indiana Land Resources Council

Sec. 1. As used in this chapter, "council" refers to the Indiana land resources council established by section 3 of this chapter.

Sec. 2. As used in this chapter, "director" refers to the director

of the department of agriculture.

Sec. 3. The Indiana land resources council is established.

Sec. 4. The director shall provide the necessary staff and administrative support for the council.

Sec. 5. The purpose of the council is to:

(1) collect information; and

(2) provide:

(A) educational assistance;

(B) technical assistance; and

(C) advice;

to local governments regarding land use strategies and issues across the state.

Sec. 6. The council may do the following:

(1) Provide technical assistance and information about land use strategies.

(2) Facilitate collaboration among commonly affected state, county, and local government units.

(3) Compile and maintain a land planning information library, both hard copy and electronic, that includes current data on land resources in Indiana.

(4) Establish or coordinate educational programs for governmental units, nongovernmental entities, and the public with special consideration for local planning commission members and county commissioners.

(5) Provide counties and local communities conducting land use planning with access to technical and legal assistance through a referral service.

(6) Provide information to local authorities on model ordinances for programs and techniques on land use.

(7) Obtain grants and assist counties and local communities in locating additional funding sources for planning projects.

(8) Make recommendations to the general assembly and other governmental bodies concerning land resources.

(9) When requested, advise the general assembly on proposals relating to land resources.

Sec. 7. (a) The council consists of the following members:

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

(2) Nine (9) members appointed by the governor as follows:

(A) One (1) member representing county government.

(B) One (1) member representing municipal government.

(C) One (1) member representing farm owners.

(D) One (1) member representing home building and land development.

(E) One (1) member representing business.

(F) One (1) member representing the environment.

(G) One (1) member with expertise in land use issues representing academia.

(H) One (1) member representing soil and water conservation districts.

(I) One (1) member representing forestry.

(b) Not more than five (5) of the members appointed by the governor under subsection (a)(2) may be of the same political party.

(c) The term of a member is four (4) years.

(d) Each member appointed by the governor under subsection (a)(2) is entitled to hold office for the term of the member's appointment and is entitled to continue to serve after expiration of the member's appointment until a successor is appointed and qualified.

(e) A member is eligible for reappointment.

(f) A member appointed by the governor under subsection (a)(2) may be removed from office by the governor and serves at the pleasure of the governor.

(g) If a vacancy occurs among the members of the council appointed by the governor under subsection (a)(2), the governor shall appoint an individual to serve for the unexpired term of the vacating member.

Sec. 8. The director or the director's designee serves as chairperson of the council.

Sec. 9. (a) A quorum of the council for transacting business consists of six (6) members.

(b) The affirmative vote of at least six (6) members is necessary for any action to be taken by the council.

(c) A vacancy in the membership of the council does not impair the right of a quorum to exercise all rights and perform all duties of the council.

Sec. 10. The council shall meet at the call of the chairperson.

Sec. 11. The council's records and information shall be kept at

the office of the director.

Sec. 12. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 4. IC 15-13 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 13. STATE FAIR

Chapter 1. Definitions

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

Sec. 2. "Advisory committee" refers to the state fair advisory committee established by IC 15-13-6-1.

Sec. 3. "Agricultural interest" means any of the following:

(1) The Indiana Farm Bureau, Inc.

(2) The Farmers' Union.

(3) The Grange.

(4) The National Farmers Organization.

(5) A county or another regularly organized agricultural fair, including a county 4-H fair.

(6) The beef cattle industry.

(7) The dairy cattle industry.

(8) The grain growers' industry.

(9) Home economic clubs.

(10) The horticulture industry.

(11) Horse associations.

(12) The poultry industry.

(13) The sheep industry.

(14) The swine industry.

(15) The vegetable growers' industry.

(16) A county cooperative extension board.

(17) A soil and water conservation district.

Sec. 4. "Barn" refers to the center for agricultural science and heritage established by IC 15-13-11-1.

Sec. 5. "Barn director" refers to the individual who administers the educational programs and operations of the barn.

Sec. 6. "Board" refers to the state fair board established by IC 15-13-5-1.

Sec. 7. "Bond" means a revenue bond issued by the commission under IC 15-13-10.

Sec. 8. "Commission" refers to the state fair commission established by IC 15-13-2-1.

Sec. 9. "Cost of a project", for purposes of IC 15-13-10, has the meaning set forth in IC 15-13-10-1.

Sec. 10. "District" means any of the following districts:

(1) District 1 consists of the following counties:

Benton County
Carroll County
Jasper County
Lake County
Newton County
Porter County
Pulaski County
Starke County
White County.

(2) District 2 consists of the following counties:

Cass County
Elkhart County
Fulton County
Howard County
Kosciusko County
LaPorte County
Marshall County
Miami County
St. Joseph County
Whitley County.

(3) District 3 consists of the following counties:

Adams County
Allen County
Blackford County
DeKalb County
Delaware County
Grant County
Huntington County
Jay County
LaGrange County
Noble County
Steuben County
Wabash County
Wells County.

(4) District 4 consists of the following counties:
Bartholomew County
Dearborn County
Decatur County
Fayette County
Franklin County
Hamilton County
Hancock County
Henry County
Jennings County
Johnson County
Madison County
Ohio County
Randolph County
Ripley County
Rush County
Shelby County
Switzerland County
Union County
Wayne County.

(5) District 5 consists of the following counties:
Clark County
Crawford County
Daviess County
Dubois County
Floyd County

Gibson County
Harrison County
Jackson County
Jefferson County
Knox County
Lawrence County
Martin County
Orange County
Perry County
Pike County
Posey County
Scott County
Spencer County
Vanderburgh County
Warrick County
Washington County.

(6) District 6 consists of the following counties:
Boone County
Brown County
Clay County
Clinton County
Fountain County
Greene County
Hendricks County
Monroe County
Montgomery County
Morgan County
Owen County
Parke County
Putnam County
Sullivan County
Tippecanoe County
Tipton County
Vermillion County
Vigo County
Warren County.

(7) District 7 consists of the following county:
Marion County.

Sec. 11. "Fair" refers to the fair held by the board under

IC 15-13-7.

Sec. 12. "Fairgrounds" means the real estate owned by the commission that was originally conveyed to the state by the Indiana state board of agriculture by warranty deed dated May 31, 1921, and recorded in the office of the recorder of Marion County on April 21, 1923, in Land Record 74, page 347.

Sec. 13. "Fund" refers to the state fair fund established by IC 15-13-8-1.

Sec. 14. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 15. "Project", for purposes of IC 15-13-10, has the meaning set forth in IC 15-13-10-2.

Sec. 16. "Property" has the meaning set forth in IC 35-41-1-23.

Sec. 17. "Trustees" refers to the board of trustees for the barn established by IC 15-13-11-2.

Chapter 2. State Fair Commission

Sec. 1. (a) The state fair commission is established.

(b) The commission:

(1) is a separate body, corporate and politic;

(2) is not a state agency; and

(3) performs essential governmental functions.

Sec. 2. (a) The commission consists of eight (8) members as follows:

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

(2) The presiding officer of the board.

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

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

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

(c) Not more than:

(1) one (1) member appointed under subsection (a)(1) may reside in the same district; and

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

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

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

Sec. 3. (a) Except as provided in subsection (d), the term of an individual appointed under section 2(a)(1) of this chapter begins on the later of the following:

(1) October 1 after the expiration of the term of the member whom the individual is appointed to succeed.

(2) The day the individual is appointed by the governor.

(b) The term of a member appointed under section 2(a)(1) of this chapter expires on September 30 of the fourth year after the expiration of the term of the member's immediate predecessor.

(c) Except as provided in subsection (d), the governor may reappoint a member appointed under section 2(a)(1) of this chapter for a new term. A member reappointed by the governor is the member's own:

(1) successor for purposes of subsection (a); and

(2) immediate predecessor for purposes of subsection (b).

(d) An individual may not serve as a member under section 2(a)(1) of this chapter for more than eight (8) years in any twelve (12) year period, except as provided in section 4(c) of this chapter.

(e) The member serving under section 2(a)(2) of this chapter serves until the member is not the presiding officer of the board.

Sec. 4. (a) The governor shall appoint an individual qualified under sections 2 and 3 of this chapter to fill a vacancy on the commission.

(b) An individual appointed by the governor under subsection (a) serves the remainder of the unexpired term of the member the individual replaces.

(c) The period of the unexpired term for which an individual serves after appointment under this section is not considered in determining the number of years that a member has served in a twelve (12) year period for purposes of section 3(d) of this chapter.

Sec. 5. (a) The governor shall appoint a member appointed under section 2(a)(1) of this chapter to be the presiding officer of the commission. The presiding officer of the commission serves until the earlier of the following:

(1) The member's term expires.

(2) The member is replaced as presiding officer by the governor.

(b) The commission may elect other officers for the commission from the commission's membership.

Sec. 6. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 7. A majority of the members of the commission constitutes a quorum for the transaction of business.

Sec. 8. The commission shall administer this article.

Sec. 9. The commission may adopt rules under IC 4-22-2 to implement this article.

Sec. 10. (a) The commission shall employ an executive director who is the chief administrative officer of the commission.

(b) The executive director shall implement the policies of the commission.

(c) The commission may delegate to the executive director any of the commission's powers. The commission may make a delegation under this subsection by either of the following:

(1) A resolution adopted by the commission.

(2) A rule adopted by the commission under IC 4-22-2.

Sec. 11. The executive director may hire staff for the commission.

Sec. 12. The executive director may delegate a power or duty of the executive director to a member of the staff.

Sec. 13. (a) The commission shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for employees of the commission; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rules or policy under this section must be consistent with Indiana law and approved by the governor.

Sec. 14. The commission shall pay the expenses of the commission from the money of the commission, including the fund.

Sec. 15. (a) Before the issuance of any bonds under this chapter:

(1) the executive director of the commission;

(2) each member of the commission; and

(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000).

(b) If an individual described in subsection (a)(1) through (a)(3) is already covered by a bond required by state law, the individual does not need to obtain another bond if the bond required by state law:

(1) is in at least the penal sum specified in subsection (a); and

(2) covers the individual's activities for the authority.

(c) Instead of the surety bond required under subsection (a), the chairperson of the commission may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the commission.

(d) A surety bond required under this section must be:

(1) conditioned upon the faithful performance of the individual's duties; and

(2) issued by a surety company authorized to transact business in Indiana as a surety.

(e) After the issuance of any surety bonds, the surety bonds must be maintained in full force and effect at all times.

(f) The commission shall pay the costs of the surety bonds issued under this section.

Chapter 3. Powers and Duties of the Commission

Sec. 1. The commission shall maintain and develop the:

(1) fairgrounds; and

(2) other property owned by the commission.

Sec. 2. The commission shall administer the:

(1) fairgrounds; and

(2) property owned by the commission;

to provide for maximum use of the fairgrounds and property of the commission for the benefit of the citizens of Indiana.

Sec. 3. (a) The commission is responsible for holding the fair. Holding the fair shall be given priority over all other activities by the commission during the period the fair is held.

(b) In addition to holding the fair, the commission may:

(1) hold expositions;

(2) hold exhibitions; and

(3) engage in any other lawful activity that does not interfere with the operation of the fair.

Sec. 4. The commission may do the following:

(1) Enter into contracts related to the commission's powers and duties under this article.

(2) Receive gifts.

(3) Charge admissions.

(4) Purchase, lease, and sell real and personal property.

(5) Make improvements to the fairgrounds and property owned by the commission.

Sec. 5. The commission may not permit unlawful activities to be conducted on any of the following:

(1) The fairgrounds.

(2) Property owned by the commission.

Sec. 6. The commission has complete control over the use of the:

(1) fairgrounds; and

(2) property owned by the commission.

Sec. 7. (a) The commission shall adopt a cost accounting system that is governed by generally accepted accounting principles.

(b) The commission is subject to audit by the state board of accounts.

Sec. 8. The commission shall adopt rules under IC 4-22-2 relating to the following:

(1) Procurement of property.

(2) Disposition of property owned by the commission.

(3) Contracting procedures.

Sec. 9. At the first meeting each year of the advisory committee,

the commission shall report the following:

(1) The activities of the commission during the previous calendar year.

(2) The financial condition of the commission for the commission's most recently completed fiscal year.

(3) The commission's plans for the current calendar year.

Sec. 10. (a) Promptly following the close of a fiscal year, the commission shall submit an annual report of the commission's activities for the preceding year to the:

(1) governor;

(2) budget committee; and

(3) general assembly.

(b) The annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

(c) The annual report must set forth a complete operating and financial statement of the commission during that year.

Chapter 4. Property of the Commission

Sec. 1. The commission holds title to property in the commission's name.

Sec. 2. (a) The commission holds the fairgrounds in trust for the state.

(b) The commission may not dispose of any part of the fairgrounds except as authorized by a statute specifically providing for disposal of that part of the fairgrounds.

Sec. 3. The commission may not dispose of real property owned by the commission not covered under section 2 of this chapter without the consent of the governor.

Sec. 4. The fairgrounds and property of the commission are exempt from the following:

(1) State taxes.

(2) Local taxes.

(3) License fees.

(4) Special assessments.

Sec. 5. The following may not take an interest in the fairgrounds or property owned by the commission without the consent of the commission:

(1) A political subdivision.

(2) A utility.

Chapter 5. State Fair Board

Sec. 1. The state fair board is established.

Sec. 2. (a) The board consists of seventeen (17) members as follows:

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

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

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

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

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

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

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

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

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

Sec. 3. (a) Except as provided in subsection (d), the term of an individual as a member under section 2(a)(4) or 2(a)(5) of this chapter begins on the later of the following:

(1) October 1 after the expiration of the term of the member whom the individual is appointed or elected to succeed.

(2) For an individual appointed under section 2(a)(4) of this chapter, the day the individual is appointed by the governor.

(b) The term of a member under section 2(a)(4) or 2(a)(5) of this chapter expires on September 30 of the fourth year after the expiration of the term of the member's immediate predecessor.

(c) Except as provided in subsection (d), a member of the board may be reappointed or reelected for a new term. A member reappointed or reelected is the member's own:

(1) successor for purposes of subsection (a); and

(2) immediate predecessor for purposes of subsection (b).

(d) An individual may not serve as a member under section 2(a)(4) or 2(a)(5) of this chapter for more than eight (8) years in

any twelve (12) year period, except as provided in section 4(c) of this chapter.

Sec. 4. (a) The governor shall appoint an individual qualified under sections 2 and 3 of this chapter to fill a vacancy on the board.

(b) The individual appointed by the governor under subsection (a) serves the remainder of the unexpired term of the member the individual replaces.

(c) The period of the unexpired term for which an individual serves after appointment under this section is not considered in determining the number of years that a member has served in a twelve (12) year period for purposes of section 3(d) of this chapter.

Sec. 5. (a) The board shall elect a member serving under section 2(a)(5) of this chapter to be the presiding officer of the board. The member elected under this section is the presiding officer of the board until the earlier of the following:

(1) The date the member's term expires.

(2) The date the member is replaced as presiding officer by the board.

(b) The board may elect other officers for the board from the board's membership.

Sec. 6. (a) Subject to subsection (c), each member of the board who is not a state employee is entitled to receive the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Subject to subsection (c), reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Subject to subsection (c), each member of the board who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) The commission shall adopt a policy for:

(1) the number of meetings the board may hold; and

(2) payment of per diem and travel expenses:

(A) for board meetings; and

(B) during the time the fair is held.

Sec. 7. The commission shall pay the expenses of the board approved by the commission from the money of the commission.

Sec. 8. The board may not hold property in the board's name.

Sec. 9. If an organization wants to be certified to vote in an election under this chapter, the organization must apply to the director of the department of agriculture.

Sec. 10. (a) Subject to sections 11 through 13 of this chapter, the director of the department of agriculture shall certify an organization that applies under section 9 of this chapter as eligible to vote in a district election under this chapter only if the organization:

(1) is an agricultural interest;

(2) is regularly organized within the district;

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

(4) has elected officers;

(5) has an annual meeting;

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

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

(A) the name of the organization;

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

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

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

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

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

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

Sec. 11. (a) If an organization organized on a statewide basis has an affiliated organization in any county of a district:

(1) the affiliated organization may be certified; and

(2) the organization organized on a statewide basis may not be certified;

for the district under section 10 of this chapter.

(b) If subsection (a) does not apply, but the organization organized on a statewide basis has an affiliated organization within the district:

(1) the affiliated organization may be certified; and

(2) the organization organized on a statewide basis may not be certified;

for the district under section 10 of this chapter. The affiliated organization may cast only one (1) vote in a district election.

(c) If subsections (a) and (b) do not apply, the organization organized on a statewide basis:

(1) may be certified for the district under section 10 of this chapter; and

(2) may cast only one (1) vote in a district election.

Sec. 12. (a) If an organization organized only on a district level basis has an affiliated organization in any county of a district:

(1) the affiliated organization may be certified; and

(2) the organization organized only on a district level basis may not be certified;

for the district under section 10 of this chapter.

(b) If subsection (a) does not apply, the organization organized only on a district level basis:

(1) may be certified for the district under section 10 of this chapter; and

(2) may cast only one (1) vote in a district election.

Sec. 13. (a) The director of the department of agriculture may not certify for a district under section 10 of this chapter more than two (2) organizations in a county in the district that satisfy the requirements of section 10 of this chapter.

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

(1) Order of application for certification.

(2) Number of members of each organization.

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

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

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

Sec. 14. (a) Before September 1 of the year the term of a member representing a district expires, the director of the department of agriculture shall notify each organization certified for the district under section 10 of this chapter that a district convention will be held to elect the member to represent the district.

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

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

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

Sec. 15. The director of the department of agriculture shall send copies of the credentials of each individual entitled to vote in a district convention to the following:

(1) The board member representing the district.

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

Sec. 16. (a) The director of the department of agriculture shall choose from among the members of the commission the individual to preside at a district convention.

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

Sec. 17. (a) During September before the term of a member representing a district expires, the individuals designated under section 10(a)(7)(C) of this chapter for each organization certified under section 10 of this chapter for the district shall meet in a district convention to elect the member's successor.

(b) Voting under subsection (a) is by voice concurrent with the submission of a signed written ballot by each person voting indicating the person's vote.

Sec. 18. The director of the department of agriculture shall adopt rules for the business of a district convention. Rules adopted

under this section may not be inconsistent with this chapter.

Sec. 19. (a) Except as provided in subsection (b), the credentials of an individual issued under this chapter are conclusive of the right of the individual to vote at the district convention.

(b) A person may contest the validity of the credentials of an individual by alleging facts constituting fraud or misrepresentation in securing the credentials. The affidavit must be filed with the presiding officer of the district convention not later than the date of the district convention.

(c) If a person contests the validity of the credentials of an individual under subsection (b), the validity of the individual's credentials shall be determined by a majority vote of all individuals representing the county of the individual whose credentials are contested.

Sec. 20. Except as provided in section 16 of this chapter, an individual may not vote at a district convention if the individual does not have valid credentials issued under this chapter.

Sec. 21. (a) To be elected as a member to represent a district, an individual must:

(1) be a resident within the district; and

(2) have the other qualifications to be a member of the board under this chapter.

(b) If an individual receives a majority of the votes cast at a district convention, the individual is elected as a member to represent the district.

Sec. 22. The presiding officer of a district convention shall certify the results of the election under section 21 of this chapter to the commission and to the board.

Sec. 23. The director of the department of agriculture may:

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

(2) prescribe forms;

to implement sections 9 through 22 of this chapter.

Chapter 6. State Fair Advisory Committee

Sec. 1. The state fair advisory committee is established.

Sec. 2. (a) The advisory committee consists of the following members:

(1) Four (4) members of the senate, not more than two (2) of whom are members of the same political party, appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom are members of the same political party, appointed by the speaker of the house of representatives.

(b) A member appointed under subsection (a) serves until the first day of the first regular session of the next general assembly following the member's appointment.

(c) A vacancy on the advisory committee shall be filled for the unexpired term by the appointing authority who appointed the member whose position is vacant.

(d) After appointment of the members of the advisory committee under subsection (a), the:

(1) speaker of the house of representatives shall name one (1) of the members as chairperson; and

(2) president pro tempore of the senate shall name another member as vice chairperson.

The chairperson and the vice chairperson serve until the first day of the second regular session of that general assembly. The vice chairperson during the first session then becomes the chairperson, and the chairperson during the first session becomes the vice chairperson. The appointing authority may name a different chairperson or vice chairperson at any time.

Sec. 3. The advisory committee shall meet:

(1) at the times the advisory committee determines; or

(2) more frequently if the chairperson considers a meeting necessary.

Sec. 4. The advisory committee shall do the following:

(1) Serve as a liaison between the:

(A) commission;

(B) board of trustees of the barn;

(C) board; and

(D) general assembly.

(2) Review policies affecting the activities of the:

(A) commission;

(B) barn;

(C) state fair;

(D) facilities at the fairgrounds; and

(E) property owned by the commission.

(3) Provide long range guidance for the:

(A) commission;
(B) board of trustees of the barn; and
(C) board.
(4) Review annually the:
(A) commission's;
(B) board of trustees of the barn's; and
(C) board's;
budgets and other accounts and report financial conditions to the legislative council. A report under this subdivision to the legislative council must be in electronic format under IC 5-14-6.
(5) Further advise the budget committee regarding appropriations and other financial matters concerning the:
(A) commission;
(B) board of trustees of the barn; and
(C) board.
(6) Propose, review, and make recommendations concerning legislation affecting the:
(A) commission;
(B) barn; and
(C) board.
Sec. 5. (a) As requested by the advisory committee, the:
(1) commission;
(2) board; or
(3) board of trustees of the barn;
shall provide to the advisory committee information relating to the operation of each, respectively.
(b) The legislative services agency shall provide staff for the advisory committee.
Chapter 7. Annual Agricultural Fair
Sec. 1. The board shall hold one (1) state agricultural fair each year. The fair must emphasize agriculture and agribusiness.
Sec. 2. In holding the fair, the board is subject to the policies of the commission.
Sec. 3. The executive director employed under IC 15-13-2-10 is responsible for the day to day operation of the fair.
Chapter 8. State Fair Fund
Sec. 1. The state fair fund is established.
Sec. 2. The commission shall administer the fund.

Sec. 3. (a) The fund consists of the following:

(1) Revenue from the property tax imposed under IC 15-13-9.

(2) Appropriations made by the general assembly.

(3) Interest accruing from investment of money in the fund.

(4) Certain proceeds from the operation of the fair.

(b) The fund is divided into the following accounts:

(1) Agricultural fair revolving contingency account.

(2) Other accounts established by the commission.

(c) The money credited to the agricultural fair revolving contingency account may be used only to pay start-up expenses for the fair each year. Money used to pay the start-up expenses from the account must be replaced using proceeds from the operation of the fair before the proceeds may be used for any other purpose.

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

(b) Interest that accrues from investments of the fund shall be deposited in the fund.

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

Sec. 6. The fund may be used to:

(1) pay the expenses, including administrative expenses, of the commission; and

(2) make lease payments under IC 15-13-10-11.

Sec. 7. The money in the fund is subject to allotment under IC 4-13-2-18.

Sec. 8. (a) The commission may deposit revenues not set forth in section 3 of this chapter in funds:

(1) other than the fund; and

(2) created under the commission's accounting system.

(b) Funds created under the commission's accounting system are subject to audit by the state board of accounts.

Sec. 9. The commission may use money in funds created under section 8 of this chapter for activities of the commission authorized under this article.

Chapter 9. State Fair Property Tax

Sec. 1. A tax is imposed upon all the taxable property in Indiana at a rate of eight hundredths of a cent ($0.0008) for each one hundred dollars ($100) of assessed valuation.

Sec. 2. The treasurer of each county shall collect the tax imposed under this chapter in the same way property taxes of political subdivisions are collected.

Sec. 3. The auditor of each county shall report and pay the taxes collected under this article to the auditor of state.

Sec. 4. The auditor of state shall deposit revenue from the tax into the fund.

Chapter 10. Revenue Bonds

Sec. 1. (a) As used in this chapter, "cost of a project" includes the following:

(1) The cost of construction and purchase.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and other legal or equitable interests acquired by the commission for construction, including the cost of any relocations incidental to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the commission, including the cost of:

(A) acquiring any property to which the buildings, structures, or improvements may be moved; or

(B) acquiring any property that may be exchanged for property acquired by the commission.

(4) Financing charges.

(5) The cost of issuance of bonds or notes, including cost of credit enhancement, such as bond or note insurance.

(6) Remarketing or conversion fees.

(7) Bond or note discount.

(8) Capitalized interest.

(9) The cost of funding any reserves to secure the payment of bonds or notes.

(10) Engineering and legal expenses, and the cost of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(11) Other expenses necessary or incidental to determining the feasibility or practicability of constructing any project.

(12) Administrative expenses of the commission relating to any project financed by bonds or notes.

(13) Reimbursement of the commission for any cost, obligation, or expense incurred by the commission relating to

a project.

(14) Other expenses the commission finds necessary or incidental to the construction or purchase of the project, the financing of the construction or purchase of the project, and the placing of the project in operation.

(b) As used in this chapter, "cost of a project" does not include the construction of facilities for pari-mutuel horse racing.

Sec. 2. As used in this chapter, "project" means any of the following concerning property at the fairgrounds:

(1) Acquisition.

(2) Construction.

(3) Repair.

(4) Refurbishing.

Sec. 3. (a) Subject to the approval of the governor, the commission may, by resolution, authorize and issue revenue bonds to:

(1) pay all or part of the cost of a project; or

(2) refund outstanding revenue bonds.

(b) The principal of and the interest on bonds must be payable solely from the revenues specifically pledged to the payment of the principal and the interest on the bonds.

(c) The bonds of each issue must:

(1) be dated; and

(2) mature at a time not exceeding thirty (30) years from the date of the bonds.

(d) The bonds may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission.

(e) The commission shall:

(1) determine the form of the bonds; and

(2) fix:

(A) the denomination of the bonds; and

(B) the place of payment of principal and interest, which may be at any bank or trust company in the United States.

(f) The bonds must be signed in the name of the commission by:

(1) the commission chairperson; or

(2) the facsimile signature of the commission chairperson.

(g) The official seal of the commission, or a facsimile of the seal, must be:

(1) affixed to the bonds; and

(2) attested by the executive director of the commission.

(h) If an officer whose signature or a facsimile of whose signature appears on a bond ceases to be an officer before the delivery of the bonds, the signature or facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) Bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the laws of Indiana.

(j) Bonds may be issued in registered form.

(k) Bonds must be sold in accordance with IC 21-32-3.

(l) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds.

Sec. 4. (a) The proceeds of the bonds of each issue must be:

(1) used solely for the payment of the cost of the project for which the bonds were issued; and

(2) disbursed in the manner and under those restrictions that the commission provides in the resolution authorizing the issuance of the bonds or in a trust agreement securing the bonds.

(b) If the proceeds of an issue of bonds are less than the cost of the project, additional bonds may be issued to provide the amount of the deficit. Unless specifically provided in the resolution authorizing the issuance of the bonds or in a trust agreement securing the bonds, the additional bonds:

(1) are considered to be bonds of the same issue as the initially issued bonds; and

(2) are entitled to payment from the fund from which the initially issued bonds are paid without preference or priority of the initially issued bonds.

(c) If the proceeds of the bonds of an issue exceed the cost of the project for which the bonds were issued, the surplus must be deposited to the credit of the sinking fund for the bonds. However, if there is not a sinking fund, the surplus must be held for the payment of the principal of and the interest on the bonds.

(d) The commission may provide for the replacement of bonds that become mutilated, destroyed, or lost.

(e) Bonds may not be issued under this chapter without the

consent of the governor.

Sec. 5. (a) Bonds issued under this chapter may be secured by a trust agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana.

(b) A resolution adopted by the commission providing for the issuance of bonds, and any trust agreement under which the bonds are issued, may pledge or assign all or any part of the revenues received by the commission except that part necessary:

(1) to pay the cost of the commission's administrative operation, maintenance, and repair expenses, and to provide reserves for those expenses; and

(2) for depreciation reserves required by a bond resolution or trust agreement of the commission.

(c) The commission may not mortgage any property.

(d) When authorizing the issuance of bonds for a project, the commission may:

(1) limit the amount of bonds that may be issued as a first lien and charge against the revenues pledged to the payment of the bonds; or

(2) authorize the later periodic issuance of additional bonds secured by the same lien to provide funds:

(A) for the completion of the project on account of which the original bonds were issued; or

(B) to pay the cost of additional projects.

The commission may issue additional bonds only on terms and conditions provided in the bond resolution adopted by the commission, in a trust agreement, or in a supplemental agreement. The additional bonds may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior to the original issue.

(e) A pledge or an assignment made by the commission is valid and binding from the time the pledge or assignment is made. Revenues pledged and received by the commission are immediately subject to the lien of the pledge or assignment without physical delivery or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind against the commission, whether or not the parties have notice. Neither the resolution nor a trust agreement by which a pledge is created or

assignment made need be filed or recorded except in the records of the commission.

(f) A trust agreement or a resolution providing for the issuance of bonds may contain reasonable provisions for protecting and enforcing the rights and remedies of the bondholders.

(g) A bank or trust company incorporated under the laws of the state and acting as the depository of the proceeds of bonds or other funds of the commission may furnish indemnifying bonds or pledge securities as required by the commission.

(h) A trust agreement may do the following:

(1) Set forth the rights and remedies of the bondholders and the trustee.

(2) Restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations.

(3) Contain other provisions the commission considers reasonable and proper for the security of the bondholders.

(i) All expenses incurred in carrying out the provisions of a trust agreement may be treated as a part of the cost of the operation of the project.

Sec. 6. (a) All money received under this chapter must be held and applied solely as provided in this chapter. Until the time the money is needed for use, the money may be invested or kept in depositories designated by the commission in the manner provided by IC 5-13.

(b) The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer or any bank or trust company entrusted with money under this chapter shall:

(1) act as trustee of the money; and

(2) hold and apply the money for the purposes of this chapter, under this chapter and the authorizing resolution or trust agreement.

Sec. 7. (a) A holder of a bond issued under this chapter may, subject to the authorizing resolution or trust agreement:

(1) protect and enforce the holder's rights under the laws of Indiana, the trust agreement, or the resolution authorizing the issuance of the bonds; and

(2) enforce and compel the performance of the duties required

under this chapter, by the trust agreement, or by resolution to be performed by the commission or by any officer of the commission.

(b) The trust agreement or resolution authorizing the issuance of the bonds may include provisions requiring the fixing, charging, and collecting of fees, rentals, or other charges by the commission.

Sec. 8. (a) Bonds issued under this chapter:

(1) do not constitute:

(A) a debt of the state or of any political subdivision of the state; or

(B) a pledge of the faith and credit of the state or of any political subdivision; and

(2) are payable solely from the funds pledged for payment of the bonds under this chapter.

(b) Each bond must contain on the face of the bond a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state or of any political subdivision of the state, but are payable solely from revenues pledged for payment of the bonds. Those revenues may not include:

(1) proceeds or interest derived from funds of the state; or

(2) any proceeds received by the commission derived from the levy of any tax.

(c) All expenses incurred in carrying out this chapter are payable solely from funds provided under the authority of this chapter.

(d) This chapter may not be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by:

(1) the state; or

(2) any political subdivision of the state.

Sec. 9. Bonds issued by the commission under this chapter constitute legal investments for:

(1) any private trust funds; and

(2) the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies,

industrial loan and investment companies, and any other financial institutions organized under the laws of Indiana.

Sec. 10. Interest paid on bonds issued under this chapter is exempt from taxation for all purposes, except:

(1) the inheritance tax under IC 6-4.1; and

(2) for determining financial institution tax liabilities under IC 6-5.5.

Sec. 11. (a) As used in this section, "lessor" has the meaning set forth for "leasing body" in IC 5-1-1-1. The term includes the Indiana bond bank.

(b) The commission may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed thirty (30) years. The lease may provide for payments from revenues under this chapter, taxes in the fund, any other funds that may be legally pledged by the commission, or any combination of these sources. Money in the fund may be used to make lease payments.

(c) A lease may provide that payments by the commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased project in accordance with the lease. The terms of each lease must be based upon the value of the project leased and may not create a debt of the commission for purposes of the Constitution of the State of Indiana. Property tax revenues may not be used to make lease payments unless those revenues have been appropriated by the general assembly. A lease under this section that is wholly or partly payable from property tax revenues must include the following:

(1) A statement that the term of the lease is for:

(A) a period coextensive with the biennium used for state budgetary and appropriation purposes; and

(B) a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of thirty (30) years, unless either the commission or the lessor gives notice of nonextension at least six (6) months before the end of a biennium, in which case the lease expires at the end of the biennium in which the notice is given.

(d) The commission may approve the execution of a lease if the commission finds that the service to be provided throughout the

term of the lease will serve the public purpose of the commission and is in the best interests of the citizens of Indiana. Upon execution of the lease, the commission may publish notice of the adoption one (1) time each week for two (2) weeks in two (2) newspapers published and of general circulation in Marion County. If notice is published, any action or proceeding in any court to set aside the lease or to obtain relief upon the ground that the action of the commission in entering into the lease is invalid must be filed not more than thirty (30) days after the first publication of notice of the execution of the lease. After the expiration of the thirty (30) day period, a right of action may not be asserted and the validity of the lease or any of the provisions of the lease may not be questioned in any court or agency upon any grounds.

(e) If the commission exercises an option to buy a leased project from a lessor, the commission may subsequently sell the leased project, without regard to any other statute, to the lessor at the end of the lease term at:

(1) a price set forth in the lease; or

(2) the fair market value established at the time of the sale by the commission through auction, appraisal, or arms length negotiation.

Chapter 11. Center for Agricultural Science and Heritage

Sec. 1. (a) The center for agricultural science and heritage (the barn) is established.

(b) The barn is established for the following purposes:

(1) To educate the public concerning the past, present, and future of American agriculture and rural life.

(2) To educate youth and the general public about American agriculture and food systems.

(3) To provide educational programming for youth that complements school curricula, both onsite and in the classroom.

(4) To create a synergy between Indiana's institutions of education and agriculture related industries.

(5) To generate economic vitality, convention activity, and tourism activity for Indiana.

(6) To become:

(A) a center for agricultural business and thinking;

(B) a clearinghouse of agricultural information;

(C) a resource center for educators and the public; and

(D) a repository for agricultural artifacts and history.

(7) To create a central, prominent partner with whom agricultural organizations can launch, collaborate on, and coordinate programs.

(8) To position Indiana as the recognized agricultural center of the nation.

Sec. 2. The board of trustees for the barn is established.

Sec. 3. (a) The trustees govern the barn. The trustees consist of seventeen (17) members as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. (a) The term of a member appointed to the trustees under section 3(a)(11) of this chapter:

(1) is four (4) years;

(2) begins on the later of:

(A) October 1 after the expiration of the term of the trustee whom the member is appointed to succeed; or

(B) the day the member is appointed; and

(3) expires September 30 of the fourth year after the expiration of the term of the member's immediate predecessor.

(b) Except as provided in subsection (c), a member appointed under section 3(a)(11) of this chapter:

(1) may be reappointed for a new term;

(2) if reappointed, is the member's own successor or predecessor for purposes of subsection (a); and

(3) may not serve as a trustee for more than eight (8) years in a twelve (12) year period, except as provided in section 6(c) of this chapter.

(c) A member appointed under section 3(a)(11) of this chapter before October 1, 2005, may not serve as a trustee more than nine (9) years in a twelve (12) year period.

Sec. 5. The trustees may do the following, with approval by the commission:

(1) Enter into contracts related to the trustees' powers and duties under this chapter.

(2) Receive gifts.

(3) Charge admissions.

(4) Purchase, lease, and sell personal property.

Sec. 6. (a) The governor shall appoint an individual to fill a vacancy among the trustees.

(b) The individual appointed by the governor under subsection (a) serves the remainder of the unexpired term of the trustee whom the individual replaces.

(c) The period of the unexpired term for which an individual serves after appointment is not considered in determining the number of years that a trustee has served in a twelve (12) year period for purposes of section 4(b)(3) of this chapter.

Sec. 7. (a) The trustees shall elect a member of the trustees serving under section 3(a)(11) of this chapter to be the presiding officer of the trustees. The trustee elected under this subsection is the presiding officer of the trustees until the earlier of the following:

(1) The expiration of the trustee's term.

(2) The replacement of the trustee as presiding officer by the trustees.

(b) The trustees may elect other officers for the trustees from the trustees serving under section 3(a)(11) of this chapter.

Sec. 8. (a) The trustees shall recommend an individual to be employed by the commission as the barn director, subject to approval by the commission.

(b) The barn director shall implement the policies of the trustees and the commission.

(c) The commission may delegate any of the commission's powers to the barn director. The commission may make a delegation under this subsection by either of the following:

(1) A resolution adopted by the commission.

(2) A rule adopted by the commission under IC 4-22-2.

(d) With approval by the commission, commission employees:

(1) may be compensated in full or in part by the nonprofit entity established under section 13 of this chapter; and

(2) may perform services that support the purposes of the nonprofit entity established under section 13 of this chapter.

Sec. 9. (a) The barn director may hire staff for the barn subject to the budget approved by the trustees and the commission.

(b) The staff of the barn are:

(1) employees of the commission; and

(2) accountable to the commission directly or through the executive director of the commission.

Sec. 10. The barn director may delegate a power or duty of the barn director to a member of the barn staff.

Sec. 11. A majority of the trustees constitutes a quorum for the transaction of business.

Sec. 12. A majority vote of the trustees is necessary to take official action.

Sec. 13. (a) The trustees may establish a nonprofit entity to solicit, raise, and accept funds.

(b) The nonprofit entity established under this section may receive proceeds from the operations of the barn, subject to approval by the commission.

(c) The nonprofit entity established under this section is governed by a board of directors. The directors include:

(1) the presiding officer of the trustees of the barn, who may act as presiding officer of the board of directors; and

(2) four (4) individuals appointed by the trustees.

Sec. 14. The commission shall pay the operating expenses of the barn from the funds allocated by the commission to the barn.

Sec. 15. At the first meeting each year of the advisory committee, the trustees shall report the following:

(1) The activities of the barn during the previous calendar year.

(2) The financial condition of the barn for the barn's most recently completed fiscal year.

(3) The trustees' plans for the barn for the current calendar year.

Sec. 16. (a) Subject to subsection (b):

(1) each member of the trustees who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b) and is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties; and

(2) each member of the trustees who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties;

as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) The commission shall adopt a policy for:

(1) the number of meetings the trustees may hold; and

(2) payment of per diem and travel expenses:

(A) for trustees' meetings; and

(B) during the time of other required activities.

Sec. 17. The trustees may not hold real property in the trustees' name.

SECTION 5. IC 15-14 IS ADDED TO THE INDIANA CODE AS

A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 14. AGRICULTURAL FAIRS, ASSOCIATIONS, AND SOCIETIES

Chapter 1. Organization of Interstate Fairs

Sec. 1. (a) At least thirty (30) individuals who are residents of at least two (2) states may organize themselves into a society to locate and conduct a fair in any county in Indiana.

(b) Individuals who have organized a society under subsection (a) may organize themselves into a corporation by filing written articles of incorporation under section 2 of this chapter. The articles must:

(1) be signed by each individual who is a member at the time of organization;

(2) specify the:

(A) purpose of the corporation;

(B) corporate name that is adopted;

(C) name and residential address of each member or stockholder; and

(D) manner in which individuals are appointed or elected to manage the business and concerns of the corporation; and

(3) bear an impression and description of the corporate seal.

Sec. 2. (a) A society organized as a corporation under section 1 of this chapter shall file its articles of incorporation in the recorder's office of the county of incorporation.

(b) After the expenses of filing and recording have been paid, the county recorder shall record the articles of incorporation in the miscellaneous book of records in the office of the recorder. A certified copy of the articles of incorporation or the recorded articles are conclusive evidence of the matters and things contained in the articles.

(c) A duplicate of the articles of incorporation must be filed with the secretary of state.

Sec. 3. A corporation incorporated under this chapter:

(1) has all the rights, powers, and privileges given to corporations by common law;

(2) may sue and be sued;

(3) may borrow and secure payment of money by:

(A) notes and mortgage; and

(B) bonds or deeds of trust upon the corporation's personal and real property; and

(4) may rent, lease, purchase, hold, sell, and convey real and personal property necessary and proper:

(A) to erect buildings; and

(B) for other purposes of a corporation organized under section 1(a) of this chapter.

Sec. 4. A corporation incorporated under this chapter may:

(1) divide its corporate property into shares; and

(2) designate the manner that the shares may be held, sold, conveyed, assigned, or transferred.

Sec. 5. (a) A corporation incorporated under this chapter:

(1) shall elect officers or agents necessary to carry into operation the purposes of its organization;

(2) may prescribe and adopt rules for the direction of its officers and members; and

(3) shall keep a fair record of its proceedings and accounts in proper books.

(b) The corporation's records or copies of the records that:

(1) are certified by the secretary or clerk of the corporation; and

(2) have affixed the corporate seal;

may be used as evidence in a court proceeding.

Sec. 6. Real or personal property may be:

(1) bequeathed;

(2) devised; or

(3) given;

to a corporation incorporated under this chapter by will if the corporation name is stated or the purpose for the transfer leaves no reasonable doubt as to the corporation or purpose for which the transfer was intended.

Sec. 7. (a) The amount of real estate that a corporation incorporated under this chapter may purchase or own may not exceed:

(1) one hundred sixty (160) acres; and

(2) five hundred thousand dollars ($500,000) in value.

(b) A corporation incorporated under this chapter may sell any land that it possesses or may possess.

Sec. 8. (a) Except as provided in subsection (b), the capital stock of a corporation incorporated under this chapter may not exceed five hundred thousand dollars ($500,000).

(b) The capital stock of a corporation incorporated under this chapter may be increased by the vote of the stockholders at:

(1) an annual meeting of the stockholders; or

(2) a meeting called especially to increase the capital stock;

to an amount not exceeding one million dollars ($1,000,000).

Sec. 9. (a) A corporation incorporated under this chapter shall annually offer and present cash awards for the improvement of soils, tillage, crops, manures, improvement of stock, articles of domestic industry, and other articles, productions, and improvements the corporation considers proper. The awards must be provided in different amounts and grades so that large and small manufacturers and farmers have an opportunity to compete for the awards.

(b) A corporation incorporated under this chapter may perform any acts the corporation considers best to promote the agricultural and household manufacturing interests of the county and of the states whose residents have organized the corporation.

(c) When a corporation organized under this chapter makes its awards, special attention must be given to the profits that may or are likely to accrue from:

(1) the improved method of raising the crop;

(2) improving the soil or stock; or

(3) the fabrication of the articles offered;

with the intention that the award be given for the most economical method of improvement.

(d) Before an award is made under this section, a person competing for a cash award for improved:

(1) tillage methods;

(2) manufacturing methods; or

(3) production of any crop or other articles;

must deliver to the awarding committee a full and correct statement of the process of the tillage method, manufacturing method, or production. The statement must show the expense and value of the process to show accurately the profits derived or expected to be derived.

Sec. 10. A corporation incorporated under this chapter shall:

(1) annually publish a list of the awards made by the corporation under section 9 of this chapter and a summary of the treasurer's account in a newspaper of the county; and

(2) make a:

(A) report of its proceedings during the year;

(B) synopsis of the awards made by the corporation under section 9 of this chapter for improvements in agricultural and household manufactures, along with summary descriptions of the improvements; and

(C) report of the condition of agriculture in the county or district of the corporation, which must:

(i) comply with the rules of the state fair commission; and

(ii) be forwarded to the state fair commission at its annual meeting in January of each year.

A subsequent payment may not be made from the county treasury unless a certificate is presented to the auditor from the secretary of the state fair commission showing that the report has been made.

Sec. 11. (a) A corporation incorporated under this chapter may do the following:

(1) Borrow not more than two hundred thousand dollars ($200,000) at a rate of interest not to exceed six percent (6%) per annum.

(2) Mortgage its property to secure the repayment of the loan.

(3) Issue bonds for not more than two hundred thousand dollars ($200,000).

(b) Bonds issued under subsection (a) must:

(1) not exceed a duration of twenty (20) years;

(2) have interest bearing coupons affixed; and

(3) be secured by mortgage on the property of the corporation.

Sec. 12. (a) As used in this section, "county executive" means the board of commissioners of a county elected under IC 36-2-2-2.

(b) The county executive of a county containing taxable property with a value of at least twenty million dollars ($20,000,000) may make an allowance out of the general fund of the county to a corporation incorporated under this chapter.

(c) Before an allowance under subsection (b) is made, the

president or secretary of the association shall file a sworn statement with the county executive showing the:

(1) name and date of organization of the association; and

(2) amount expended for fairgrounds and permanent improvements needed for the fairgrounds and the amount necessary to complete the improvements.

(d) After receiving a sworn statement under subsection (c), the county executive may make an allowance that the county executive considers necessary, but that does not exceed either of the following:

(1) Ten thousand dollars ($10,000).

(2) One-half (1/2) the amount shown by the statement to be expended on the grounds and improvements.

(e) The amount appropriated under this section is a lien on the real and personal property of the association.

(f) Dividends may not be declared or paid to the incorporators or stockholders until the appropriation made by the board is repaid to the county treasurer with interest.

Chapter 2. State Horticultural Associations

Sec. 1. (a) A state, district, or county society of persons associated for horticultural purposes may incorporate in the following manner:

(1) A state horticultural society may incorporate by depositing a certified copy of the society's articles of association, with its name and a description and an impress of the seal adopted by the society, in the office of the secretary of state.

(2) A district or county horticultural association may incorporate by depositing, under the seal of the state horticultural association, a statement showing that the district or county association:

(A) was organized for horticultural purposes and is entitled to representation; and

(B) has consented to elect at least one (1) delegate to represent the association;

in the state horticultural association at its annual and official meetings, in the office of the recorder of the county where the district or county horticultural association is organized, along with the name by which the association will be known and a description of the seal adopted. The recorder shall record the

statement in the miscellaneous record. A fee of fifty cents ($0.50) may be charged and collected to record the statement.

(b) A state, district, or county horticultural association:

(1) is a body corporate and politic, with perpetual succession; and

(2) may:

(A) sue and be sued;

(B) enter into contracts;

(C) plead and be impleaded;

(D) take, hold, and convey real and personal property; and

(E) make bylaws and rules for the governance of the association and the management of its affairs and property consistent with Indiana law.

(c) A state, district, or county horticultural association may:

(1) purchase;

(2) improve; or

(3) sell, not exceeding, at any one (1) time, one hundred (100) acres of land;

for the use and purposes of the association, and may erect buildings on the land necessary for the use of the association and the improvement of the land.

Sec. 2. (a) The state horticultural association organized under section 1 of this chapter shall hold, in Indianapolis or another location in Indiana to be selected by the association at the preceding meeting, an annual meeting, for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the horticultural interests of the people of Indiana.

(b) At the annual meeting, the district and county horticultural associations may be represented by one (1) or more delegates each, as the state association provides. The district and county associations shall forward, by representatives, the report of the condition and prospects of the district or county associations to the state horticultural society.

Sec. 3. (a) When the state horticultural association has complied with this chapter, the association is entitled to the occupancy and use of any unappropriated room in the state capitol or other building used or occupied by the state.

(b) The room described in subsection (a) shall be designated as the department of horticulture.

(c) An association occupying the room described in subsection (a) may maintain in the room:

(1) a library;

(2) specimens and representations of horticultural industry;

(3) collections of insect specimens or birds that are injurious or beneficial to horticultural products in Indiana; and

(4) floral specimens and representations collected by the association.

Those items and other items that the association collects and deposits in the room must be available for public inspection and examination under rules adopted by the association.

(d) The association:

(1) shall hold the items described in subsection (c) until ordered under rules adopted by the association or the interests of horticulture require; and

(2) may adopt bylaws for the association's protection and good order that are considered necessary and not inconsistent with Indiana law.

Chapter 3. County and District Agricultural Societies

Sec. 1. (a) If:

(1) at least thirty (30) individuals who are residents of any county or a district containing two (2) Indiana counties have:

(A) organized themselves into a society for the improvement of agriculture within the county or district;

(B) adopted a constitution and bylaws that comply with the rules furnished by the state fair commission;

(C) appointed the usual and proper officers; and

(D) raised and paid to the treasurer of the society, by voluntary subscription or by fees imposed on its members, at least fifty dollars ($50); and

(2) the president of the society described in subdivision (1)(A) certifies to the respective county auditors the amounts paid, attested by the oath or affirmation of the treasurer before a person authorized to administer oaths;

the county auditors within the district in which the society is organized shall draw a warrant on the treasurer of the respective counties in favor of the president and treasurer of the society for the amount of funds that were received during the previous year for licenses issued to persons exhibiting menageries, circuses,

theatrical performances, or other shows.

(b) A warrant issued under subsection (a) may not exceed the amount raised and paid in by the society by voluntary subscriptions or fees.

(c) The treasurer of the county shall pay the warrant issued under this section.

Sec. 2. (a) A county or district society formed under section 1 of this chapter shall annually offer and present cash awards for:

(1) the improvement of soils, tillage, crops, and manures;

(2) the improvement of stock and articles of domestic industry; and

(3) other articles, productions, and improvements;

the society considers proper. The awards must be provided in different amounts and grades so that large and small manufacturers and farmers have an opportunity to compete for the awards.

(b) A society formed under section 1 of this chapter may perform acts the society considers best to promote agricultural and household manufacturing interests of the district and of the state.

(c) When a society formed under section 1 of this chapter makes an award under subsection (a), special attention must be given to the profits that may or are likely to accrue from:

(1) the improved method of raising the crop;

(2) improving the soil or stock; or

(3) the fabrication of the articles offered;

with the intention that the award be given for the most economical method of improvement.

(d) Before an award is made under subsection (a), a person offering to compete for a cash award on improved:

(1) tillage methods; or

(2) production of any crop or other articles;

must deliver to the awarding committee a full and correct statement of the process of the tillage or production method. The statement must show the expense and value of the process to show accurately the profits derived or expected to be derived.

Sec. 3. A society organized under section 1 of this chapter shall:

(1) annually publish a list of the awards made by the society under section 2 of this chapter and a summary of the treasurer's account in a newspaper of the county or district;

and

(2) make a:

(A) report of its proceedings during the year;

(B) synopsis of the awards made by the society under section 2 of this chapter for improvements in agriculture and household manufactures, along with summary descriptions of the improvements; and

(C) report of the conditions of agriculture in the county or district of the society, which must:

(i) comply with the rules of the state fair commission; and

(ii) be forwarded to the state fair commission at its annual meeting in January of each year.

A subsequent payment may not be made from the county treasury unless a certificate is presented to the auditor from the state fair commission showing that the report has been made.

Chapter 4. Incorporation of State Associations

Sec. 1. Associations of persons for the advancement of the agricultural interests of the state known as:

(1) the state corn growers' association;

(2) the state livestock breeders' association; and

(3) the state dairymen's association;

may become incorporated by depositing in the office of the secretary of state a certified copy of the articles of the association, including the name assumed and a description and impress of the seal adopted by the association.

Sec. 2. An association organized under section 1 of this chapter shall hold, in Indianapolis, or some other place in Indiana selected by the association at its preceding meeting, or by its executive committee before the date of the meeting, an annual meeting and any auxiliary meetings that may be desired, for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the corn, livestock, or dairy interests of the people of Indiana. A person interested in any of these lines of industry may participate at the meetings.

Sec. 3. (a) The following entities, upon their compliance with sections 1 and 2 of this chapter, are entitled to receive from the state treasury, out of money in the state general fund not otherwise

appropriated, sums of money the general assembly appropriates:

(1) The state corn growers' association.

(2) The state livestock breeders' association.

(3) The state dairymen's association.

(b) An appropriation under subsection (a) may be used only for the following purposes:

(1) Obtaining speakers for association meetings.

(2) Payment of traveling expenses for the speakers and officers of the association.

(3) Advertising association meetings.

(4) Publishing and distributing an annual report.

(5) Obtaining medals, trophies, dies, premium ribbons, awards, postage stamps, and clerical services.

An officer may not receive compensation for the officer's services other than the actual expenses incurred in engaging in the business of the association.

Chapter 5. Agricultural Societies, Associations, and Corporations

Sec. 1. (a) This chapter applies to a society, an association, or a corporation:

(1) organized:

(A) for the improvement of agriculture; or

(B) to conduct fairs or agricultural exhibits; or

(2) owning or operating fairgrounds or other real estate for similar purposes.

(b) This chapter does not apply to:

(1) the state fair commission; or

(2) the property owned by the commission.

Sec. 2. A society, an association, or a corporation described in section 1 of this chapter, with authority of its board of directors, may:

(1) borrow money;

(2) mortgage its property; and

(3) issue notes, bonds, and other obligations without restrictions other than those applying to corporations generally.

Sec. 3. A society, an association, or a corporation described in section 1 of this chapter may:

(1) upon authority granted by the votes of those holding

two-thirds (2/3) of the shares of stock:

(A) sell; and

(B) convey by deed all or any part of its grounds and property at any time; and

(2) use the proceeds obtained from the sale in payment of its obligations, or for other and usual corporate purposes, in the same manner as corporations generally are authorized to do.

After payment of its obligations the society, association, or corporation may distribute the proceeds among the shareholders.

Sec. 4. A society, an association, or a corporation described in section 1 of this chapter may:

(1) dissolve; and

(2) liquidate;

the affairs of the society, association, or corporation in the same manner as corporations generally are authorized to do.

Chapter 6. Corporate Status for County and District Agricultural Societies

Sec. 1. (a) A county or district agricultural society, an agricultural and mechanical society, and a horticultural society must be a body corporate with perpetual succession.

(b) A society described in subsection (a) may:

(1) issue capital stock not to exceed ten thousand dollars ($10,000), in shares not to exceed twenty-five dollars ($25) each; and

(2) hold real estate, by purchase, gift, or devise, not to exceed eighty (80) acres.

Sec. 2. Shares in the capital stock of a society described in section 1 of this chapter are transferable for consideration from a person to another person, subject to the bylaws that the society adopts.

Sec. 3. (a) In all meetings of stockholders of a society, described in section 1 of this chapter, held for the:

(1) election of:

(A) trustees; or

(B) directors; or

(2) purpose of expressing the will of the stockholders by vote on any question;

a stockholder is entitled to cast one (1) vote for each share the stockholder owns and has fully paid for.

(b) A stockholder is not entitled to vote on more than ten (10) shares in a vote held under subsection (a).

Chapter 7. Allowance for Tax Levy Procedure for Support of County 4-H Clubs

Sec. 1. As used in this chapter, "executive" means the board of commissioners of a county under IC 36-2-2-2.

Sec. 2. Subject to section 3 of this chapter, the executive of a county may make an appropriation from the county general fund to a 4-H club that promotes the agricultural and horticultural interests of the county.

Sec. 3. (a) The president or secretary of a 4-H club described in section 2 of this chapter may file a petition signed by at least thirty (30) resident freeholders of the county with the county auditor of the county requesting that the executive make an appropriation provided for in section 2 of this chapter.

(b) The county auditor shall have the petition, without the signatures, published in a newspaper of general circulation printed and published in the county.

(c) The notice must state the date and time when the petition will be considered by the executive. The auditor shall set the date and time at which the petition will be considered, which must be at least thirty (30) days after the publication of the notice.

(d) If not later than the date and time published in the notice for the consideration of the petition by the executive, a remonstrance signed by more resident freeholders of the county than the number signing the petition is filed with the county auditor protesting the allowance, the executive shall consider the remonstrance. If the executive finds that the remonstrance is signed by a greater number of resident freeholders than the petition asking for an allowance, the executive:

(1) may not make an appropriation for the purposes set forth in section 2 of this chapter; and

(2) shall dismiss the petition and take no further action.

(e) After final acceptance by the executive, a petition under this section is effective for one (1) to five (5) years, as determined by the executive.

Sec. 4. The county council may levy an annual tax of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation to:

(1) construct;

(2) operate; or

(3) maintain;

a building owned and operated by a 4-H club described in section 2 of this chapter. The tax may be levied only until the building has been constructed or for not more than five (5) years, whichever occurs first. After the building has been constructed, the county council may levy an annual tax of not more than sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of assessed valuation to operate and maintain the building.

Sec. 5. A 4-H club described in section 2 of this chapter may solicit and accept any kind of contribution for the development and maintenance of the club's projects.

Sec. 6. (a) An amount appropriated under section 2 of this chapter is a lien on the real and personal property of the 4-H club.

(b) A dividend may not be declared or paid to the incorporators or stockholders of the 4-H club until the appropriation made by the board is repaid with interest to the county treasury.

Chapter 8. Issuance of Mortgage Bonds by County Agricultural or Horticultural Societies

Sec. 1. All:

(1) agricultural or horticultural societies; or

(2) county fairs having a state charter;

owning at least fifty (50) acres of real estate in fee simple may issue first mortgage bonds in a maximum amount of seventy-five percent (75%) of the value of the real estate unimproved to pay off a current incumbrance or make permanent improvements on the society's or fair's grounds.

Sec. 2. (a) Bonds issued under section 1 of this chapter:

(1) are free from state tax; and

(2) may not be issued for a period longer than the life of the charter of the society or fair.

(b) The bonds may be sold at a price less than the par value if the action is endorsed by a full meeting of the board of directors of the society or fair.

Sec. 3. If bonds have been issued under section 1 of this chapter and there is a surplus in the treasury of the society or fair, funds not needed for improvements on the grounds must be used to retire the bonds. Bonds must be retired in the order of their seniority,

and a clause stating this privilege must be inserted in all bonds.

Chapter 9. Tax Levy for County Fairs

Sec. 1. (a) The county council and board of county commissioners of a county may appropriate and pay to:

(1) an agricultural fair, exhibition, or association; or

(2) an organized county 4-H club in which the residents of the county are interested;

a sum not exceeding four cents ($0.04) on each one hundred dollars ($100) valuation of the taxable property of the county, to be paid out of the county general fund.

(b) An appropriation under subsection (a) may be used only for necessary costs and expenses:

(1) incidental to the conduct and carrying out the purposes of organized:

(A) 4-H clubs; and

(B) boys' and girls' club work;

(2) for cash awards on:

(A) agricultural and horticultural products;

(B) livestock; and

(C) boys' and girls' club work; and

(3) for judging products, livestock, and club work described in this subsection.

(c) An appropriation under subsection (a) applies to regularly organized:

(1) fair associations; and

(2) boys' and girls' clubs, 4-H clubs, or agricultural clubs;

if the fair or exhibition is given only for the promotion of the interests of agriculture, horticulture, and stock raising. The appropriation does not apply to a person, an association, or a corporation conducting the fair or exhibition for profit or to street fairs or exhibitions.

(d) An appropriation under subsection (a) may not be used or given for contests of speed.

Sec. 2. (a) Subject to subsections (b) and (c), in a county where two (2) or more fairs or exhibitions are conducted as provided in section 1 of this chapter, the county council may appropriate to each of the fairs or associations an amount that the county council considers proper and equitable.

(b) The amount appropriated under subsection (a) must be

computed by the ratio that the cash awards and judging expenses of each fair bears to the total amount spent for awards and judging by the fairs sharing in the division.

(c) The total amount appropriated under subsection (a) may not exceed a sum equal to one cent ($.01) on each one hundred dollars ($100) valuation of the taxable property located in the county.

Chapter 10. Appropriation to County Corn Growers' Association or Horticultural Society in a County Without a County Fair

Sec. 1. (a) This section applies to a county corn growers' association or horticulture society with at least:

(1) fifty (50) members in the local association or society; and

(2) ten (10) members in the state association or society.

(b) In a county where an agricultural fair or association:

(1) does not exist; or

(2) is not active;

the county council and the board of county commissioners may annually appropriate and pay to any county corn growers' association or horticultural society up to two hundred dollars ($200) to be used in the payment of cash awards.

SECTION 6. IC 15-15 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 15. HORTICULTURE PRODUCTS

Chapter 1. Indiana Seed Law

Sec. 1. As used in this chapter, "advertisement" means any representation, other than those on the label, relating to seed covered by this chapter, disseminated in any manner or by any means.

Sec. 2. As used in this chapter, "agricultural seed" means the seeds of legume, grass, forage, cereal, or fiber crops. The term includes other kinds of seeds commonly recognized in Indiana as agricultural seeds, lawn seeds, and mixtures of such seeds.

Sec. 3. As used in this chapter, "brand" means a word, name, number, or design used to identify seed of one (1) person to distinguish it from seed of another person.

Sec. 4. As used in this chapter, "bulk lot" or "in bulk" refers to seed in an unpackaged form. The term does not include seed in bags.

Sec. 5. As used in this chapter, "certifying agency" refers to either of the following:

(1) An agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed.

(2) An agency of a foreign country determined by the state seed commissioner to adhere to procedure and standards for seed certification generally adhered to by certification agencies described in subdivision (1).

Sec. 6. As used in this chapter, "distribute" means to sell, offer to sell, barter, or supply or transport for sale agricultural or vegetable seed for sowing and seeding purposes in Indiana.

Sec. 7. As used in this chapter, "effective", as applied to inoculants, means that under laboratory tests at least two (2) nodules must be produced on or adjacent to the primary root on at least sixty-six percent (66%) of the plants in the test.

Sec. 8. As used in this chapter, "hybrid" means the first generation of a cross made under controlled conditions between strains of different parentage and of satisfactory purity.

Sec. 9. As used in this chapter, "kind" means one (1) or more related species or subspecies of plant that singly or collectively are known by one (1) common name, including corn, oats, alfalfa, and timothy.

Sec. 10. As used in this chapter, "label" means the display or displays of written, printed, or graphic matter on or attached to a seed container or accompanying seed sold in bulk quantities.

Sec. 11. As used in this chapter, "labeling" refers to the use of labels or other written, printed, or graphic representations in any form accompanying or associated with a lot of seed whether in bulk or in containers. The term includes any representations on an invoice.

Sec. 12. As used in this chapter, "legume inoculant" means a pure or mixed culture of bacteria of the genus Rhizobium capable of effectively inoculating a specific kind or specific kinds of legume plants.

Sec. 13. As used in this chapter, "lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

Sec. 14. As used in this chapter, "noxious weed seed" means

either of the following:

(1) Prohibited noxious weed seed.

(2) Restricted noxious weed seed.

Sec. 15. As used in this chapter, "percent" or "percentage" refers to the percentage by weight.

Sec. 16. As used in this chapter, "person" means an individual, a partnership, a company, or a corporation.

Sec. 17. As used in this chapter, "pre-inoculated seed" means seed to which has been applied before sale an application of a legume inoculant to effectively nodulate the resultant plant until the expiration date of the inoculant.

Sec. 18. As used in this chapter, "prohibited noxious weed seed" means:

(1) the seeds of perennial weeds that not only reproduce by seed but also spread by underground roots, stems, and other reproductive parts; and

(2) seeds, which when well established, are highly destructive and difficult to control by ordinary good cultural practice.

Sec. 19. As used in this chapter, "record" means all information relating to the shipment or distribution of a lot of seed. The term includes a file sample of each lot of seed.

Sec. 20. As used in this chapter, "restricted noxious weed seed" means:

(1) seeds of weeds that are very objectionable in fields, lawns, and gardens of Indiana; and

(2) seeds of weeds that can be controlled by good cultural practices.

Sec. 21. As used in this chapter, "treated" refers to seed that has been subjected to an application of a substance or a process to:

(1) reduce, control, or repel certain disease organisms, insects, or other pests attacking the seed or seedlings growing from the seed; or

(2) change the appearance, growth pattern, or performance of the seed or seedlings growing from the seed.

Sec. 22. As used in this chapter, "type" means the general physiological and morphological characters common to a number of varieties, which varieties cannot be differentiated except under special conditions.

Sec. 23. As used in this chapter, "variety" means a subdivision

of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which a plant can be differentiated from other plants of the same kind.

Sec. 24. As used in this chapter, "vegetable seed" means the seeds:

(1) of crops grown commercially or in home gardens; and

(2) commonly known and sold in Indiana as vegetable seeds.

Sec. 25. As used in this chapter, "weed seed" means the seeds of all plants commonly recognized as weeds in Indiana. The term includes noxious weed seeds.

Sec. 26. The state chemist is the state seed commissioner by virtue of office.

Sec. 27. (a) The state seed commissioner shall administer this chapter. The state seed commissioner may authorize an agent to act for the state seed commissioner under this chapter.

(b) The state seed commissioner may do any of the following to administer this chapter:

(1) Sample, inspect, analyze, and test agricultural and vegetable seed distributed within Indiana for seeding and sowing purposes, when, where, and to the extent the state seed commissioner considers necessary to determine whether the agricultural or vegetable seed is in compliance with this chapter.

(2) Notify a seed distributor of any violations of this chapter.

(3) Adopt rules:

(A) governing:

(i) methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed; and

(ii) tolerances to be followed in the administration of this chapter; and

(B) necessary for the efficient enforcement of this chapter.

(4) Adopt rules to establish lists of prohibited and restricted noxious weeds.

(5) Adopt rules to establish reasonable standards of germination (as defined by rule adopted under section 28 of this chapter) for vegetable seed.

(6) Adopt rules to establish standards for the effectiveness of legume inoculant applied to pre-inoculated seed.

(7) Adopt rules to govern the treatment of seed and the

labeling and distribution of treated seed.

(8) Publish at least one (1) time each year, in the form the seed commissioner considers proper, information concerning:

(A) the sales of agricultural and vegetable seed; and

(B) the results of the analysis of official samples of agricultural and vegetable seed sold within Indiana as compared with the analysis guaranteed on the label.

Information concerning production and use of agricultural and vegetable seed may not disclose the operation of any person.

(9) Enter any:

(A) public or private property during regular business hours; or

(B) vehicle that transports seed, whether by land, water, or air, at any time the vehicle is accessible;

to inspect seed and the records relating to the seed, subject to this chapter and the rules adopted under this chapter.

(10) As used in this subdivision, "stop sale order" refers to a written order issued by the state seed commissioner to the owner or custodian of a lot of agricultural or vegetable seed that the state seed commissioner has found violates this chapter or rules adopted under this chapter. The state seed commissioner may issue and enforce stop sale orders. A stop sale order prohibits the future sale, processing, and movement of the seed until the state seed commissioner issues a release from the stop sale order. The owner or custodian of the seed is entitled to appeal a stop sale order to a court with jurisdiction in the locality in which the seed is found, as provided in IC 4-21.5, seeking a judgment as to the justification for the order for the discharge of the seed from the stop sale order in accordance with the findings of the court. This subdivision does not limit the right of the state seed commissioner to proceed as otherwise authorized by this chapter.

(11) Establish and maintain or make provisions for seed testing facilities.

(12) Employ qualified persons.

(13) Incur necessary expenses.

(14) Test or provide for testing seed for purity and

germination (as defined by rule adopted under section 28 of this chapter) for farmers and dealers on request of a farmer or dealer, prescribe rules governing such testing, and charge for the tests made.

(15) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

(16) Enter the property of a producer of hybrid seed to determine whether the seed produced is as the seed is represented.

Sec. 28. (a) The state seed commissioner may by rule define seed labeling and testing terms in common usage such as "pure seed" and "germination".

(b) A rule adopted by the state seed commissioner under this section must be based on published sources such as the rules of the Association of Official Seed Analysts.

Sec. 29. The state seed commissioner may, by rule, define controlled conditions and satisfactory purity for the production of hybrid seed of any kind. A hybrid designation shall be treated as a variety name.

Sec. 30. The label of seed that has been pre-inoculated must indicate that the seed has been pre-inoculated.

Sec. 31. (a) Sections 32 and 33 of this chapter do not apply to the following:

(1) Seed or grain not intended for seeding and sowing purposes. However, treated agricultural seed must be labeled in accordance with section 32 of this chapter when sold to any person for any purpose whether the seed is in containers or in bulk.

(2) Seed in storage or seed that is being transported or consigned to a seed cleaning or processing establishment for cleaning or processing if the invoice or labeling accompanying a shipment of the seed contains the statement "Seed For Processing". Any labeling or other representation that may be made with respect to uncleaned or unprocessed seed is subject to this chapter.

(3) A carrier in respect to seed transported or delivered for transportation in the ordinary course of its business as a carrier if the carrier is not engaged in producing, processing, or distributing agricultural or vegetable seed subject to this

chapter.

(4) Seed that satisfies all the following:

(A) The seed is grown on the property owned by the seller of the seed.

(B) The seed is sold and delivered to the purchaser on the property on which the seed is grown.

(C) The seed does not contain prohibited noxious weed seed.

(D) The seed contains not more than one-fourth of one percent (0.25%) of restricted noxious weed seed.

(E) The seed contains not more than two and one-half percent (2.5%) of all weed seed.

If seed is advertised for sale through the medium of the public press, by circular, by catalog, or by exposing a sample of the seed or a printed or written statement about the seed in a public place or place of business, or if the seed is delivered by a common carrier, (except when transported for the purpose of being recleaned as provided in this section), the producer is considered to be a vendor, and the seed must meet all requirements of this chapter, including complete labeling of the seed. For cereal and soybean seed where the purpose for which the seed is intended may be in question, seed advertised for sale by variety name, as processed, tested, treated, or offered at a price substantially higher than current market prices, is presumed to be offered for seeding purposes and subject to the labeling provisions of this chapter.

(b) A person is not subject to the penalties of this chapter for distributing agricultural or vegetable seed incorrectly labeled or represented as to kind, variety, or origin and that cannot be identified by examination of the seed unless the person fails to:

(1) obtain an invoice, genuine grower's declaration, or other labeling information; and

(2) take other precautions reasonable to ensure the identity of the seed as stated.

Sec. 32. (a) A container of agricultural seed of any size consisting of more than one (1) pound distributed in Indiana for sowing and seeding purposes must contain or have attached in a conspicuous place on the outside of the container a plainly written or printed tag or label in English giving the information required

by this section. If the seed is distributed in bulk, the information required by this section must accompany delivery and be supplied to the purchaser at the time of delivery.

(b) The labeling required for seed sold in bags and packages, and in bulk as required by this section, must include the following statements on the labeling attached to the container:

(1) The commonly accepted name of each kind and variety of each agricultural seed component that exceeds five percent (5%) of the whole and the percentage by weight of each in the order of its predominance. However, the variety designation may be omitted if the label states the name of the kind and the words "variety not stated". If more than one (1) component is required to be named, the word "mixture" or the word "mixed" must be shown conspicuously on the label. A mixture consisting of two (2) or more varieties of the same kind may be designated as a "blend".

(2) Lot number or other lot identification.

(3) Origin (state or foreign country where grown) for all seed except hybrid corn. If the origin is unknown, that fact must be stated.

(4) The percentage of all weed seed.

(5) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.

(6) The percentage of all other agricultural or vegetable seed, which may be designated as "other crop seeds" or "crop seeds".

(7) The percentage of inert matter.

(8) For each named agricultural seed:

(A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;

(B) the percentage of hard seed if present; and

(C) the calendar month and year the test was completed to determine the percentages.

(9) The name and address of the person who labeled the seed or who distributed it within Indiana.

(10) For all seed named and treated (for which a separate label may be used):

(A) a word or statement indicating that the seed has been

treated;

(B) the commonly accepted coined chemical or abbreviated chemical (generic) name of any applied pesticide;

(C) a description of the process or the commonly accepted name of the substance applied if other than a pesticide; and

(D) if the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do Not Use For Food Or Feed Or Oil Purposes". A poison statement or symbol must be used as the caution for mercurials and similarly toxic substances.

(11) For pre-inoculated seed, in addition to other labeling requirements of this section (for which a separate label may be used):

(A) a word or statement indicating that the seed has been pre-inoculated; and

(B) the date beyond which the inoculant is not to be considered effective.

(c) The statements required by this section may not be modified or denied.

Sec. 33. A container of vegetable seed of any size distributed within Indiana for sowing and seeding purposes must have attached in a conspicuous place on the outside of the container a plainly written or printed label in English giving the following information:

(1) The name of the kind and variety of seed.

(2) The name and address of the person who labeled or who distributed the seed.

(3) For seed that germinates less than the standard most recently established under this chapter:

(A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;

(B) the percentage of hard seed, if present;

(C) the calendar month and year the test was completed to determine the percentages; and

(D) the words "Below Standard" in not less than 8 point type.

(4) For seed that has been treated, the same labeling information required for agricultural seeds.

(5) The number of noxious weed seeds per pound of vegetable seed, if any weed seed is present.

Sec. 34. (a) For the purpose of defraying the costs of inspection, analysis, publication, and other expenses incurred in the administration of this chapter, the state seed commissioner shall charge the amount set forth in this section for tags or labels required by sections 32 and 33 of this chapter.

(b) The charge for alfalfa, clover, vegetable, and grass seed or mixtures of any of these seeds is the following:

(1) Six cents ($0.06) for each twenty-five (25) pound tag or label.

(2) Twelve cents ($0.12) for each fifty (50) pound tag or label.

(3) Eighteen cents ($0.18) for each seventy-five (75) pound tag or label.

(4) Twenty-four cents ($0.24) for each one hundred (100) pound tag or label.

(c) The charge for seed other than seed described in subsection (b) is the following:

(1) Two and one-fourth cents ($0.0225) for each twenty-five (25) pound tag or label.

(2) Four and one-half cents ($0.045) for each fifty (50) pound tag or label.

(3) Six and three-fourths cents ($0.0675) for each seventy-five (75) pound tag or label.

(4) Nine cents ($0.09) for each hundred (100) pound tag or label.

(5) Nine cents ($0.09) for one hundred (100) pounds for each tag or label that the state seed commissioner furnishes in denominations larger than one hundred (100) pounds.

(d) Tags furnished by the state seed commissioner must:

(1) contain the facsimile signature of the state seed commissioner;

(2) be referred to as state seed commissioner tags or labels;

(3) be completely filled out with the information required in sections 32 and 33 of this chapter; and

(4) be attached to containers or be delivered with sales of agricultural or vegetable seed distributed in bulk in quantities of more than one (1) pound.

(e) A distributor or the distributor's successor may return for

credit any unused and obsolete state seed commissioner tags or labels. The state seed commissioner shall give credit for the return of obsolete tags or labels after deducting all costs of printing and handling.

(f) If the state seed commissioner grants a distributor a permit to report the quantity of seed sold and pay the inspection fee on the basis of this report instead of attaching or furnishing state seed commissioner tags or labels as provided in this section, the distributor may return for credit, not later than sixty (60) days after issuance of the permit, all unused state seed commissioner tags or labels whether obsolete or not. The state seed commissioner shall credit the distributor those tags or labels:

(1) submitted as blank at the purchase price; and

(2) that have been filled out at the purchase price less the cost of printing and handling.

(g) A distributor of agricultural seed in packages of not more than one (1) pound shall pay not later than January 15 of each year an annual fee of forty-five dollars ($45) for each brand of seed distributed. The distributor is not required to affix state seed commissioner tags or labels to packages of not more than one (1) pound that bear a proper label. Payment of an annual fee is not required of retailers who furnish quantities of not more than one (1) pound from a properly labeled container of seed on which the inspection fee has been paid.

(h) A person who distributes agricultural or vegetable seed in Indiana may apply to the state seed commissioner for a permit to use the person's own labeling, report the quantity of seed sold, and pay the inspection fee on the basis of the report instead of attaching or furnishing state seed commissioner tags or labels. The inspection fee is the following:

(1) Twenty-four cents ($0.24) per one hundred (100) pounds of alfalfa, clover, vegetable, grass seed, and mixtures of such seeds, with a minimum payment of six cents ($0.06) for each package or container of more than one (1) pound.

(2) Nine cents ($0.09) per one hundred (100) pounds of all agricultural seed other than seeds described in subdivision (1), with a minimum payment of two and one-fourth cents ($0.0225) for each package or container of more than one (1) pound.

(3) One dollar and fifty cents ($1.50) for each assortment or unit of vegetable seed distributed in an assortment or other display unit, in packets of not more than one (1) pound.

(i) In making application for a permit under subsection (h), the distributor must agree to the following:

(1) Label the seed with the information required by law.

(2) Keep the records the state seed commissioner considers necessary to indicate accurately the number and size of containers of each kind of agricultural and vegetable seed distributed and the quantity of such seed distributed in bulk.

(3) Grant the state seed commissioner or the state seed commissioner's authorized representative permission to examine the records described in subdivision (2) and verify the statement of quantity of seed distributed.

(4) Report under oath to the state seed commissioner on forms furnished by the state seed commissioner the quantity of agricultural and vegetable seed sold during the period covered.

(j) The state seed commissioner may grant a permit under subsection (h) if the state seed commissioner determines that the applicant's proposed report of the quality of agricultural and vegetable seed sold will lead to efficient enforcement of this chapter. The state seed commissioner may revoke the permit at any time if it appears to the state seed commissioner that the distributor is not complying with the agreement described in subsection (i) or this chapter. The report of sales is due and the inspection fees payable quarterly, on the last day of the month following the end of the quarter. If:

(1) the report is not filed and the inspection fee not paid before ten (10) days following the due date;

(2) the report of volume is false; or

(3) the labeling requirements of this chapter have not been complied with;

the state seed commissioner may revoke the permit. If the inspection fee is unpaid after the ten (10) day grace period, a penalty shall be assessed in the amount of ten percent (10%) in addition to the amount due.

Sec. 35. (a) The state seed commissioner shall pay all fees collected under this chapter to the treasurer of Purdue University.

(b) The board of trustees of Purdue University shall expend the fees on proper vouchers filed with the treasurer of Purdue University. The treasurer shall pay vouchers for the following expenses:

(1) The employment of inspectors and seed analysts.

(2) Procuring samples.

(3) Printing bulletins giving the results of inspection.

(4) Any other expenses of the Purdue University agricultural programs authorized by law and for implementing this chapter.

(c) The dean of agriculture of Purdue University shall make a financial report to the governor in such form as the state board of accounts requires, showing the total receipts and expenditures of all fees received under this chapter.

(d) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

Sec. 36. (a) Each person whose name appears on the label as distributing agricultural or vegetable seed subject to this chapter shall do the following:

(1) Keep for two (2) years complete records of each lot of agricultural or vegetable seed distributed.

(2) Keep for one (1) year a file sample of each lot of seed that is distributed after final disposition of the lot.

(b) All records and samples relating to the shipments involved must be accessible for inspection by the state seed commissioner or the state seed commissioner's agent during customary business hours.

Sec. 37. (a) A person who is engaged in the business of selling agricultural or vegetable seed who enters into a contract with the purchaser under which the seller agrees to repurchase the seed crop produced by the purchaser at a price greater than the current market price of the seed at the time of delivery shall secure an annual license from the state seed commissioner to engage in that business.

(b) To secure a license required by this section, a person must apply for the license to the state seed commissioner. The application must be accompanied by the following:

(1) A bond with corporate surety, approved by the seed commissioner, in the penal sum of ten thousand dollars

($10,000), payable to the state, for the use and benefit of any purchaser of seed who may have a cause of action against a seller who fails to comply with the terms of the purchase contract.

(2) A fee of one dollar ($1) for each place of business from which agricultural or vegetable seed is distributed by the licensee.

An applicant for a license may request the state seed commissioner to accept a verified financial statement of the applicant's assets instead of the submission of a bond. If the state seed commissioner, after an examination of the applicant's financial statement, determines that the applicant is financially responsible for any damage that may arise out of a breach of a purchase contract, the state seed commissioner may accept the statement instead of a bond.

(c) A license issued under this section expires at the end of the calendar year in which it is issued.

(d) The state seed commissioner may suspend, revoke, or refuse to issue a license under this section to any person who fails to comply with this chapter. If a hearing is waived by nonappearance of the person at the date, time, and place designated for the hearing, the state seed commissioner may proceed to act under this section and suspend, revoke, or refuse to issue a license. The failure to fulfill a contract to deliver seed sold, or the failure to repurchase the seed crop produced from any agricultural or vegetable seed sold, is prima facie evidence of intent to defraud the purchaser if the crop produced by the purchaser meets the requirements prescribed in the contract of sale. Whenever the state seed commissioner has evidence that a licensee has committed fraud on any purchaser, the state seed commissioner shall immediately start proceedings to suspend or revoke the license issued to the licensee.

(e) A person who recklessly, knowingly, or intentionally:

(1) enters into a contract with a producer of agricultural or vegetable seed, under which the person sells seed and agrees to repurchase the seed crop produced from that seed at a price greater than the current market price at the time of delivery; and

(2) has not obtained a license required by this section;

commits a Class B misdemeanor.

Sec. 38. (a) The state seed commissioner may file an action for the seizure of any lot of agricultural or vegetable seed that violates this chapter.

(b) An action filed under this section must be filed in a court with jurisdiction in the locality in which the seed is located.

(c) If the court finds the seed to be in violation of this chapter and orders the condemnation of the seed, the seed shall be denatured, processed, destroyed, relabeled, or disposed of in compliance with Indiana law. The court may not order the disposition of the seed unless the claimant is given an opportunity to apply to the court for release of the seed or permission to process or relabel the seed to bring it into compliance with this chapter.

Sec. 39. (a) The state seed commissioner may apply for, and the court may grant, a temporary or permanent injunction to restrain a person from violating or continuing to violate this chapter, or a rule adopted under this chapter, notwithstanding the existence of other remedies at law.

(b) The court may not require a bond as a condition of granting an injunction under this section.

Sec. 40. A person may not distribute agricultural or vegetable seed within Indiana if any of the following apply:

(1) If the test to determine the percentage of germination (as defined by rule adopted under section 28 of this chapter) required by sections 32 and 33 of this chapter has not been completed within a nine (9) month period, not including the calendar month in which the test was completed immediately before distribution. However, the state seed commissioner may by rule designate:

(A) a shorter period for a kind of agricultural or vegetable seed that the state seed commissioner finds under ordinary conditions of handling will not maintain, during a nine (9) month period, a germination within the established tolerance limits; or

(B) a longer period for a kind of agricultural or vegetable seed that is packaged in such container materials and under such conditions prescribed by the state seed commissioner that the state seed commissioner finds will, during the longer period, maintain the viability of the seed under ordinary conditions of handling.

(2) If the seed is not labeled in accordance with this chapter.
(3) If the seed carries labeling that is false or misleading in any particular.
(4) If the seed contains or consists of prohibited noxious weed seed.
(5) If the seed consists of or contains restricted noxious weed seed in excess of one-fourth of one percent (0.25%). If less than one-fourth of one percent (0.25%) of weed seed by weight is present, the number per pound must be declared on the labeling.
(6) If the seed contains more than two and one-half percent (2.5%) of all weed seed.
(7) If the seed is represented to be "certified seed", "registered seed", or "foundation seed", the seed has not been produced and labeled in accordance with the procedures and in compliance with rules of an official or officially recognized seed certification or registration agency.
(8) If the inoculant applied to pre-inoculated seed is ineffective as determined by standards established by rule.

Sec. 41. A person may not do any of the following:
(1) Detach, alter, deface, or destroy any label provided for in this chapter or the rules adopted under this chapter.
(2) Alter or substitute seed in a manner that may defeat the purpose of this chapter.
(3) Disseminate false or misleading advertisements concerning agricultural or vegetable seed.
(4) Hinder or obstruct in any way an authorized person in the performance of the person's duties under this chapter.
(5) Fail to comply with a stop sale order issued under section 27 of this chapter.
(6) Use the word:
(A) "trace" as a substitute for any statement required by this chapter; or
(B) "type" in any labeling in connection with the name of any seed variety.
(7) Use a state seed commissioner tag or label more than once.
(8) Sell grain or other seed that has been treated to any person for any purpose unless the grain or seed is clearly labeled as required in sections 32 and 33 of this chapter.

(9) Distribute seed colored so that it does not contrast with the natural color of the seed.

(10) Distribute noxious weed seed.

(11) Assign the same brand designation to more than one (1) variety or blend of the same kind of seed, if not sold by variety name.

Sec. 42. Except as provided in section 39 of this chapter, a person who violates this chapter commits a Class C infraction.

Sec. 43. (a) Except as provided in subsection (c), a political subdivision (as defined in IC 36-1-2-13) may not regulate the advertising, labeling, distribution, sale, transportation, storage, or use of seed.

(b) A political subdivision may, by resolution, petition the state seed commissioner for a hearing to allow a waiver to adopt an ordinance because of special circumstances relating to the advertising, labeling, distribution, sale, transportation, storage, or use of seed. If a petition is received, the state seed commissioner shall hold a public hearing to consider granting the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

(c) If the state seed commissioner, after a public hearing under subsection (b), grants a political subdivision's petition for a waiver, the political subdivision may regulate the advertising, labeling, distribution, sale, transportation, storage, or use of seed to the extent allowed by the waiver.

Chapter 2. Sale and Transfer of Plant Cultures

Sec. 1. This chapter does not apply to commercial fertilizers, barnyard manure, marl, lime, wood ashes, or plaster.

Sec. 2. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, a trustee, a receiver, or an assignee for the benefit of creditors.

Sec. 3. (a) Before pure or mixed cultures of microorganisms or materials used for promoting plant growth are sold or offered for sale in Indiana, the manufacturer, dealer, importer, agent, or person that causes the materials to be sold, offered for sale, or provided by sample shall:

(1) file with the state chemist a:

(A) statement of desire to offer for sale in Indiana the

materials; and

(B) certificate for registration stating the:

(i) name of the manufacturer;

(ii) location of the principal office of the manufacturer;

(iii) name under which the product will be sold;

(iv) name or names of the plants for which the product is to be used;

(v) composition of the substance; and

(vi) kinds of microorganisms contained in the product that promote the growth of plants; and

(2) obtain a permit from the state chemist.

(b) The state chemist may:

(1) refuse to issue a permit to an applicant described in subsection (a); or

(2) cancel a permit issued under subsection (a);

if the state chemist is satisfied that a culture of microorganisms or another material used for promoting the growth of plants is sold under false or misleading claims.

Sec. 4. A person who manufactures, offers for sale, sells, displays for sale, or provides by sample, a pure or mixed culture of microorganisms or materials used for promoting plant growth shall affix or cause to be affixed, in a conspicuous place on the outside of every package or sample of the material, a label on which is plainly printed in English the:

(1) name of the manufacturer;

(2) location of the principal office of the manufacturer;

(3) name under which the product is sold;

(4) name or names of the plants for which the product is to be used;

(5) composition of the substance; and

(6) kinds of microorganisms contained in the product that promote the growth of plants.

Sec. 5. (a) A person that:

(1) offers for sale, sells, or provides by sample a package, a sample, or a quantity of a pure or mixed culture of microorganisms or materials used for promoting plant growth to which the label prescribed by section 4 of this chapter is not affixed;

(2) labels a substance described in subdivision (1) with a false

or inaccurate label; or

(3) offers for sale or sells a substance described in subdivision (1) that is not registered with the state chemist;

as required by this chapter commits a Class C infraction.

(b) This chapter does not prevent:

(1) the state chemist;

(2) the Purdue University office of agricultural research programs; or

(3) a person deputized by the state chemist;

from making experiments with pure or mixed cultures of microorganisms or materials used for promoting plant growth for the advancement of the science of agriculture.

Sec. 6. (a) The state chemist shall charge, collect, and receive the sum of twenty-five dollars ($25):

(1) at the time of registering a pure or mixed culture of microorganisms or materials described in section 3 of this chapter for each material or culture registered; and

(2) not later than the fifteenth day of January of each succeeding year until the pure or mixed cultures of microorganisms or material is no longer sold, distributed, offered, or displayed for sale in Indiana.

(b) Money received under subsection (a) must be forwarded to the treasurer of Purdue University, who shall expend the money on vouchers to be filed with the auditor of state to pay all necessary expenses incurred in implementing this chapter, including:

(1) the employment of inspectors, chemists, and bacteriologists;

(2) the expenses incurred in procuring samples;

(3) printing bulletins; and

(4) giving the results of inspections, as provided by this chapter;

and for any other expenses of Purdue University agricultural programs, as authorized by law and in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall submit to the governor an annual classified report showing the total receipts and expenditures of all fees received under this chapter.

(d) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

Sec. 7. (a) The state chemist or a person deputized by the state chemist may procure a suitable sample from any lot, parcel, or package of pure or mixed cultures of microorganisms or materials used for promoting plant growth that is offered for sale or found in Indiana.

(b) A sample procured under subsection (a) must be drawn or taken during reasonable business hours and in the presence of the owner of the product or a representative of the owner.

Sec. 8. A person who prevents the state chemist or a person deputized by the state chemist from inspecting and obtaining samples of pure or mixed cultures of microorganisms or materials as provided in this chapter commits a Class C infraction.

Sec. 9. The state chemist may:

(1) prescribe and enforce rules necessary to implement this chapter;

(2) refuse to issue a permit; or

(3) refuse to register or cancel the registration of any product used for promoting plant growth or any pure or mixed cultures of microorganisms or materials used for promoting plant growth if the state chemist believes the product, cultures, or materials:

(A) are registered under a name that would be misleading as to the materials of which they are made; or

(B) are sold under false or misleading claims.

Chapter 3. Records of Deliveries and Purchases of Seed and Grain

Sec. 1. (a) As used in this chapter, "buyer of grain" means a person, firm, limited liability company, or corporation regularly engaged in the business of buying grain or seed produced on a farm in Indiana.

(b) The term does not include a person that purchases grain or seed if less than five (5) separate purchases are made by the person during any one (1) year.

Sec. 2. A buyer of grain or seed shall prepare, keep, and maintain a record of all deliveries and purchases of grain or seed showing the following information:

(1) The kind of grain or seed delivered or purchased, and if the grain or seed delivered or purchased is corn, whether the corn is white or yellow corn.

(2) The date on which the grain or seed is delivered by the vendor.

(3) The number of bushels of grain or seed purchased or delivered.

(4) A description of the vehicle in which the grain or seed is delivered, the name of the driver, and, if the vehicle is a motor vehicle, the license number of the motor vehicle.

(5) The name of the vendor and the name of the producer of the grain or seed.

(6) The name and address of the person to whom the money representing the purchase price of the grain or seed is paid.

Sec. 3. (a) The records kept by buyers of grain or seed under section 2 of this chapter must be available for inspection at any time by a law enforcement officer when attempting to trace the movements of grain or seed to determine whether any criminal laws of the state have been violated.

(b) All records described in subsection (a) must be kept for at least three (3) years.

Sec. 4. A person who violates or refuses to comply with this chapter commits a Class C infraction.

Chapter 4. Certification of Agricultural Seeds and Plant Parts

Sec. 1. The dean of agriculture of Purdue University:

(1) shall administer and implement this chapter; and

(2) may adopt rules under IC 4-22-2 that the dean of agriculture considers necessary to carry out the purposes and secure the efficient administration of this chapter.

Sec. 2. (a) A person, a firm, an association, a limited liability company, or a corporation that issues, uses, or circulates a certificate, an advertisement, a tag, a seal, a poster, a letterhead, a marking, a circular, a written or printed representation, or a description of or pertaining to seeds or plant parts intended for propagation or sale or sold or offered for sale on which:

(1) the words "Indiana State Certified", "State Certified", "Indiana Certified", "Certified", or similar words or phrases are used or employed; or

(2) signs, symbols, maps, diagrams, pictures, words, or phrases are used or employed that expressly or impliedly state or represent that the seeds or plant parts comply with or conform to the standards or requirements for certification

recommended or approved by Purdue University;

is subject to this chapter.

(b) For purposes of this chapter, an issuance, a use, or a circulation of a certificate or another instrument described in subsection (a) is considered to be certification under this chapter.

Sec. 3. (a) A person, a firm, an association, a limited liability company, or a corporation that is subject to this chapter shall observe, perform, and comply with all rules and requirements fixed, established, or specified by Purdue University as to the crops grown or to be grown in Indiana that are eligible for certification under this chapter and concerning:

(1) the conduct of;

(2) the standards and requirements for; and

(3) the forms of and for;

certification by Purdue University or by an authorized agent of Purdue University.

(b) Not more than one (1) agent for certification under this chapter may be designated for a specified crop.

Sec. 4. (a) Certification work conducted by Purdue University or an agent described in section 3 of this chapter is performed on a self-supporting basis and not for financial profit.

(b) Purdue University may designate as an agent for the certification of seeds or plant parts intended for propagation for sale a properly qualified:

(1) nonstock, nonprofit agricultural association incorporated under Indiana law; or

(2) agency.

Sec. 5. Purdue University is not financially responsible for debts incurred by, damages inflicted by, contracts broken by, or claims against certifying agencies in conducting certification work under this chapter.

Sec. 6. Purdue University or an agent of Purdue University described in this chapter may withhold certification from a grower of seeds or plant parts who is engaged in or attempting to engage in dishonest practices to evade the requirements of this chapter, including standards and rules established by Purdue University for certification under this chapter.

Sec. 7. (a) Except as provided in subsection (b), the term "certified" must not be used in connection with seeds or plant parts

that are:

(1) produced outside Indiana; and

(2) offered for sale in Indiana.

(b) The term "certified" may be used in connection with seeds or plant parts described in subsection (a) if the seeds or plant parts have been certified by the:

(1) agency officially approved by the inspection officials of the state, province, or country in which the:

(A) seeds or plant parts originate; and

(B) certification standards are equal to Indiana certification standards; or

(2) dean of agriculture of Purdue University.

Sec. 8. It is a Class C infraction for a person to issue, make, use, or circulate a certification described in this chapter without the authority and approval of Purdue University or the authorized agent of Purdue University.

Chapter 5. Indiana Seed Arbitration Council

Sec. 1. This chapter applies to civil actions against a seller for the failure of agricultural or vegetable seeds to perform if the container in which the seeds were sold included the following notice on the label:

NOTICE OF REQUIRED ARBITRATION

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

Sec. 2. Arbitration under this chapter is not subject to IC 34-57-2.

Sec. 3. As used in this chapter, "agricultural or vegetable seeds" refers to:

(1) agricultural; or

(2) vegetable;

seeds that are subject to IC 15-15-1.

Sec. 4. As used in this chapter, "arbitration" refers to arbitration conducted under this chapter.

Sec. 5. As used in this chapter, "buyer" means a buyer of:

(1) agricultural; or

(2) vegetable;

seeds that are subject to IC 15-15-1.

Sec. 6. As used in this chapter, "commissioner" refers to the state seed commissioner.

Sec. 7. As used in this chapter, "council" refers to the Indiana seed arbitration council established by section 9 of this chapter.

Sec. 8. As used in this chapter, "seller" refers to a seller of:

(1) agricultural; or

(2) vegetable;

seeds that are subject to IC 15-15-1.

Sec. 9. (a) The Indiana seed arbitration council is established.

(b) The following persons or their designees are members of the council:

(1) The director of Purdue University cooperative extension service.

(2) The director of the office of agricultural research programs at Purdue University.

(3) The president of the Indiana Seed Trade Association.

(4) The president of an Indiana farmer organization selected by the commissioner.

(5) The commissioner.

(c) The council shall select a chairperson from its membership.

(d) The council may be called into session by the commissioner or by the council's chairperson to consider matters under this chapter.

Sec. 10. The council shall do the following:

(1) Assist buyers and sellers in determining the validity of complaints between the buyer and the seller.

(2) Recommend cost damages resulting from the failure of seed to perform or produce properly, whether the damages are related to:

(A) specific representations on the label;

(B) other information on the seed container; or

(C) conditions attributed to the quality of the seed.

Sec. 11. The council may do the following:

(1) Examine all nonprivileged records of the buyer and the seller that the council considers relevant to a complaint filed under this chapter.

(2) Investigate and conduct tests the council considers

necessary to determine the validity of the complaint. The council may enter into contracts with qualified persons to perform investigations and tests under this subdivision.

(3) Hold hearings at the times and places designated by the chairperson to perform the functions described in section 10 of this chapter. Written notice of a hearing must be given to the buyer and the seller not later than twenty (20) days before the hearing. Each party must be given an opportunity to present its position at a hearing.

(4) Negotiate and recommend to the buyer and the seller conditions for settlement of a complaint.

(5) Hold hearings to present:

(A) the results of the investigation of a complaint; and

(B) the recommendations to the buyer and the seller for settlement of the complaint.

(6) Compel either or both of the following by subpoena:

(A) The attendance and testimony of witnesses.

(B) The production of documents.

If the council issues a subpoena, the circuit or superior court of the county in which a subpoena is to be served shall enforce the subpoena.

Sec. 12. (a) As a condition precedent to maintaining a civil action against a seller for failure of the agricultural or vegetable seeds to produce or perform:

(1) as represented by the label required to be attached to those seeds or furnished under IC 15-15-1-32 or IC 15-15-1-33;

(2) as represented by warranty; or

(3) because of negligence;

the buyer must submit the claim to arbitration.

(b) Any applicable period of limitation with respect to a claim subject to this chapter is tolled until twenty (20) days after the filing of the report of arbitration with the commissioner.

Sec. 13. (a) As a condition precedent to asserting a counterclaim or a defense in an action brought by a seller against a buyer, the counterclaim or defense must be submitted to arbitration.

(b) Upon the buyer's filing of a written notice of intention to assert a claim as a counterclaim or defense, accompanied by a copy of the buyer's complaint in arbitration filed under section 18 of this chapter, the action brought by the seller shall be stayed and any

applicable statute of limitations is tolled with respect to the claim until twenty (20) days after filing of the report of arbitration with the commissioner.

Sec. 14. The report of arbitration under section 21 of this chapter is binding upon all parties to the extent that they have so agreed in a contract governing the sale of the seed.

Sec. 15. In the absence of an agreement to be bound by arbitration, a buyer may:

(1) commence legal proceedings against a seller based upon a claim subject to this chapter; or

(2) assert a claim subject to this chapter as a counterclaim or defense in any action brought by the seller;

at any time after the receipt of the report of arbitration.

Sec. 16. In any litigation involving a complaint that has been the subject of arbitration under this chapter, any party may introduce the report of arbitration as evidence of the facts found in the report, and the court may give such weight to the council's findings of fact and conclusions of law and recommendations as to damages and costs contained in the report as the court considers appropriate based upon all the evidence before the court. The court may also take into account any finding of the council with respect to the failure of any party to cooperate in the arbitration proceedings, including any finding as to the effect of delay in filing the arbitration claim upon the council's ability to determine the facts of the case.

Sec. 17. (a) A buyer that seeks to assert a claim under this chapter shall invoke arbitration under this chapter by filing a sworn complaint with the commissioner together with a filing fee of one hundred dollars ($100). The buyer shall serve a copy of the complaint upon the seller by certified mail.

(b) Except in the case of seed that has not been planted, the claim shall be filed within a reasonable time after the alleged defect or violation becomes apparent so as to permit effective inspection of:

(1) the crops or plants under field conditions; or

(2) the grain harvested from the crops or plants.

(c) Notwithstanding subsection (b), a claim must be filed not later than ninety (90) days after completion of the harvest of the crop of the seed at issue.

Sec. 18. (a) Not later than twenty (20) days after receipt of a copy of the complaint, the seller shall file with the commissioner an answer to the complaint and serve a copy of the answer upon the buyer by certified mail.

(b) The seller shall pay a filing fee of one hundred dollars ($100) to the commissioner when the seller files the answer to the complaint under subsection (a).

Sec. 19. (a) Before beginning a complaint investigation, the commissioner shall prepare and provide to the parties an estimate of the costs to be incurred during the investigation of the complaint.

(b) Before a complaint investigation begins, the buyer and the seller shall each pay to the commissioner an amount equal to fifty percent (50%) of the costs estimated by the commissioner under subsection (a). The money required to be paid under this subsection is in addition to the filing fees required by sections 17 and 18 of this chapter.

(c) The commissioner shall deposit the money paid under subsection (b) in a separate account. The costs of the investigation shall be paid from money in the account.

(d) If the actual costs of the investigation are greater than the costs estimated under subsection (a), the buyer and the seller shall each pay fifty percent (50%) of the difference between the actual costs and the costs estimated under subsection (a).

(e) If the actual costs of the investigation are less than the costs estimated under subsection (a), the commissioner shall refund to the buyer and the seller each fifty percent (50%) of the difference between the actual costs and the costs estimated under subsection (a).

Sec. 20. The commissioner shall refer the complaint and answer to the council for investigation, findings, and recommendations.

Sec. 21. Upon referral of a complaint for investigation, the council shall make a prompt and full investigation of the matters complained of and report its findings and recommendations to the commissioner not later than sixty (60) days after the referral or a later date as the parties may determine.

Sec. 22. The report of the council must include findings of facts, conclusions of law, and recommendations as to costs, if any.

Sec. 23. The council may delegate all or any part of any

investigation to one (1) or more of its members. Any delegated investigation shall be summarized in writing and considered by the council in its report.

Sec. 24. The council shall ensure that all trade secrets and other information of a proprietary nature collected during the course of an investigation under this chapter are kept confidential to the degree necessary to ensure the property rights of the seller and the civil rights of the buyer.

Sec. 25. A member of the council is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is, however, entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 26. After the council has made its report, the commissioner shall promptly transmit the report by certified mail to all parties.

Sec. 27. The buyer and seller shall each give written notice to the commissioner of the acceptance or rejection of the council's recommended terms of settlement not later than thirty (30) days after the date of the council's recommendation.

Sec. 28. The commissioner may adopt rules under IC 4-22-2 to do the following:

(1) Describe the conditions and circumstances relating to seed to which arbitration under this chapter is applicable.

(2) Supplement the procedures of the arbitration process set forth in this chapter.

Chapter 6. Seed Contracts

Sec. 1. (a) Except as provided in section 2 of this chapter, this chapter applies to a seed contract for seed that is planted in Indiana.

(b) Other applicable Indiana law not in conflict with this chapter applies to a seed contract for seed that is planted in Indiana.

Sec. 2. This chapter does not apply to either of the following:

(1) A seed contract entered into before January 1, 2004.

(2) A production contract.

Sec. 3. The definitions in IC 15-15-7 apply throughout this chapter.

Sec. 4. (a) The provisions of this chapter are considered to be a part of every seed contract.

(b) A seed contract is not required to contain or restate any provision of this chapter.

(c) A bag or other container used by a seed supplier to deliver seed to a farmer is not required to bear a label or any other writing containing or restating any provision of this chapter. A provision found on a label or any other writing on a seed bag or container inconsistent with this chapter is not enforceable against a farmer.

(d) The failure of a seed supplier to state any provision of this chapter in a seed contract, on a label, or in any other writing on a seed bag or container is not a violation of this chapter.

Sec. 5. A provision of a seed contract in conflict with this chapter is void.

Sec. 6. A provision of a seed contract that purports to waive a provision of this chapter is void.

Sec. 7. A seed contract subject to this chapter is governed by the laws of Indiana.

Sec. 8. If a seed contract purports to choose the laws of a jurisdiction other than Indiana to govern the contract, the choice is not enforceable.

Sec. 9. (a) This section applies only if a seed contract purports to choose a forum that would not otherwise have jurisdiction over a farmer.

(b) The forum selection provision of a seed contract must be printed conspicuously in immediate proximity to the space reserved for the signature of the farmer. For purposes of this subsection, a forum selection provision is printed conspicuously if any of the following apply:

(1) The provision is printed in capital letters, and other text is printed in capital and lower case letters.

(2) The provision is printed in a larger, bold, or other typeface different from other text.

(3) The provision is printed in a color that contrasts with other text.

(4) The provision is underlined.

(5) The provision is printed in any other way that highlights the provision in relation to the other text of the contract.

(c) A forum selection provision that violates this section is not

enforceable.

Sec. 10. Communications:

(1) between a farmer and:

(A) a member of the farmer's immediate family;

(B) an attorney;

(C) an accountant;

(D) a professional adviser; or

(E) a partner, an associate, or another individual engaged with the farmer in the farming enterprise for which the seed was purchased;

(2) regarding the terms of a seed contract; and

(3) made for the purpose of giving advice to the farmer;

are not a breach of a confidentiality provision in a seed contract.

Sec. 11. If:

(1) a product in which the seed supplier has rights is possessed by the farmer or found on real property owned or occupied by the farmer; and

(2) the presence of the product is de minimus or not intended by the farmer;

the farmer is not liable for breach of the seed contract.

Chapter 7. Inspections Under Seed Contracts

Sec. 1. (a) Except as provided in section 2 of this chapter, this chapter applies to the inspection of:

(1) seed; and

(2) the crop growing from seed;

by a seed supplier under the seed supplier's rights in a seed contract.

(b) Other applicable Indiana law not in conflict with this chapter applies to a seed supplier inspecting:

(1) seed; and

(2) the crop growing from seed;

under the seed supplier's rights in a seed contract.

Sec. 2. This chapter does not apply to an inspection by a seed supplier under a production contract.

Sec. 3. As used in this chapter, "farmer" refers to a person who is engaged in commercial farming and who plants seed in Indiana under a seed contract to grow a commercial crop.

Sec. 4. As used in this chapter, "production contract" refers to any of the following:

(1) A contract to grow seed for demonstration purposes.

(2) A contract to grow seed for research purposes.

(3) A contract to grow seed under which the seed supplier:

(A) retains title to the crop or a product from the crop; or

(B) has the right or obligation to purchase, receive, or direct the disposition of the crop or a product from the crop.

(4) A contract to grow seed in connection with an identity preserved crop program.

Sec. 5. As used in this chapter, "seed" refers to agricultural seed (as defined in IC 15-15-1-2) or vegetable seed (as defined in IC 15-15-1-24) used to grow a commercial agricultural or a commercial vegetable crop.

Sec. 6. As used in this chapter, "seed contract" refers to a written contract between a seed supplier and a farmer that a farmer must sign to obtain the seed or the right to plant the seed.

Sec. 7. As used in this chapter, "seed supplier" refers to a person engaged in commercial production or supply of either of the following:

(1) Seed.

(2) Technology genetically engineered into seed.

Sec. 8. A provision of a seed contract in conflict with this chapter is unenforceable against a farmer.

Sec. 9. A provision of a seed contract that purports to waive a provision of this chapter is unenforceable against a farmer.

Sec. 10. (a) As used in this section, "commissioner" refers to the state seed commissioner.

(b) A seed contract may not give or be interpreted to give a seed supplier or an agent of a seed supplier the right to enter real property owned or occupied by the farmer to acquire samples of the crop grown from the seed or any other plant growing on the real property unless all of the following apply:

(1) The seed supplier gives written notice to the farmer and the commissioner of the seed supplier's intent to enter the real property. The notice must be given not later than five (5) business days before the day the seed supplier or the seed supplier's agent enters the real property. The notice must include the following information:

(A) The date and time of the entry upon the land.

(B) The purpose for the entry upon the land.

(2) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to accompany the seed supplier or the seed supplier's agent while samples are taken.

(3) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to take matching samples or receive split samples of any samples taken by the seed supplier.

(c) The seed supplier must provide reasonable cooperation to the farmer, the commissioner, or the agents of the farmer or the commissioner during the course of activities described in subsection (b)(2) and (b)(3).

(d) If the commissioner or an agent of the commissioner accompanies the seed supplier on the real property to take samples under this section, the seed supplier and the farmer shall each pay fifty percent (50%) of the reasonable costs incurred by the commissioner or the commissioner's agent, as determined by the commissioner, in connection with the activities.

(e) In an action on the seed contract between the seed supplier and the farmer, the prevailing party may recover the costs that the prevailing party paid under subsection (d) in addition to any other damages to which the prevailing party is entitled.

(f) A seed supplier may obtain an order from a court with jurisdiction authorizing the seed supplier or the seed supplier's agent to enter real estate owned or occupied by a farmer and on which seed that is the subject of a seed contract is growing. If the court issues an order, the order must require that if any samples are taken, matching or split samples must be taken by a person who is independent from the seed supplier.

(g) The commissioner may adopt rules under IC 4-22-2 to implement this section.

Sec. 11. (a) As used in this section, "suit" refers to a suit commenced against a farmer by a seed supplier to enforce the seed supplier's rights under, or in connection with, a seed contract.

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

(c) Failure to give notice of the suit to the director of the

department of agriculture as provided in subsection (b) does not impair the jurisdiction of the court to hear the suit.

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

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

Sec. 12. (a) A farmer has a right of action against a seed supplier if the seed supplier or an agent of the seed supplier enters real property owned or occupied by the farmer in violation of section 10 of this chapter.

(b) If a farmer prevails in an action filed under this section, the farmer is entitled to recover from the seed supplier all the following:

(1) Any actual damages proven by the farmer resulting from the seed supplier's violation of section 10 of this chapter.

(2) The farmer's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

Chapter 8. Indiana Organic Certification Accreditation

Sec. 1. As used in this chapter, "applicant" refers to a certifying agent applying for accreditation from the director in compliance with the Organic Foods Production Act.

Sec. 2. As used in this chapter, "certifying agent" refers to a person or entity acting as an independent contractor who is:

(1) accredited by the director;

(2) approved by the panel to conduct field or farm certification; and

(3) accredited by the United States Department of Agriculture under the Organic Foods Production Act.

Sec. 3. As used in this chapter, "director" refers to the director of the department of agriculture or the director's designee.

Sec. 4. As used in this chapter, "organic" refers to the method of crop production with respect to a particular crop. The term does not refer to the quality, nutritional value, or healthfulness of the crop produced.

Sec. 5. As used in this chapter, "Organic Foods Production Act" means the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

Sec. 6. As used in this chapter, "panel" means the Indiana organic peer review panel established by section 9 of this chapter.

Sec. 7. (a) The director may grant accreditation to an applicant under this chapter.

(b) In determining whether to grant accreditation to an applicant, the director shall consider the report concerning the applicant that is prepared by the panel under section 13 of this chapter.

(c) The director shall make a determination and respond to the applicant not later than three (3) months after the date of receipt of the application.

Sec. 8. A certifying agent operating within Indiana must apply in writing to the director for accreditation.

Sec. 9. (a) The Indiana organic peer review panel is established.

(b) The panel consists of nine (9) members who have knowledge in techniques involving the growing of organic products and have experience in the field of organic agriculture. The governor shall appoint the members as follows:

(1) Three (3) representatives of the Indiana farming community who are operators of an organic farm in Indiana that is certified by a private certification agency.

(2) One (1) representative of a group representing retailers or distributors of organic products.

(3) Two (2) representatives of a group representing consumers of organic products.

(4) One (1) representative of a group representing processors or handlers of organic products.

(5) The director shall serve as an ex officio nonvoting member of the panel.

(6) The state chemist shall serve as an ex officio nonvoting member of the panel.

(c) Not more than two (2) voting members of the panel appointed under subsection (b) may be persons who are employed by the state.

(d) The panel shall select a chairperson from among the panel members.

(e) The term of each voting member of the panel is four (4) years. A vacancy that occurs on the panel before the expiration of a term shall be filled for the unexpired term in the same manner as

the appointment to the panel of the vacated position is made under subsection (b).

(f) The governor may remove a panel member for cause.

Sec. 10. (a) Each year, the panel shall meet quarterly and at any other times called by the chairperson.

(b) Four (4) voting members present at a meeting constitute a quorum.

(c) A majority of a quorum is required to conduct the business of the panel.

(d) IC 5-14-1.5 applies to meetings of the panel.

Sec. 11. (a) A member of the panel who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(b) A member of the panel is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. The director shall implement this chapter with the assistance of the panel. The director has no regulatory authority under this chapter except as provided under section 17 of this chapter.

Sec. 13. (a) The panel shall do the following:

(1) Adopt standards to be used in reviewing the procedure by which certifying agents certify that the agricultural product was produced or handled in accordance with the regulations adopted under the Organic Foods Production Act.

(2) Review all applicants every three (3) years.

(3) Prepare and submit a report concerning each applicant to the director.

(4) Assist the director in evaluating applications for accreditation from applicants.

(5) Establish fees to be paid by an applicant seeking accreditation from the director to certify organic products. The fees established may not exceed the costs of administering this chapter.

(b) The standards adopted under this section must concern the following:

(1) The production and handling of agricultural products.

(2) A procedure under which certifying agents certify a farm, field, or product under this chapter.

(3) The inspection of farms and products.

(4) Testing by certifying agents.

(5) Reasonable security provided by the certifying agent for the protection of the rights of participants in an applicable organic certification program.

(6) Other terms and conditions that the panel considers necessary, in compliance with the Organic Foods Production Act.

Sec. 14. A product sold in Indiana that is:

(1) labeled organic or certified organic; and

(2) produced in any other state of the United States;

must be certified in accordance with the Organic Foods Production Act.

Sec. 15. A person may sell or label a product produced in Indiana as:

(1) organic;

(2) certified organic; or

(3) Indiana certified organic;

in Indiana only if the product has been certified by a certifying agency that has been accredited by the director.

Sec. 16. The panel may, subject to the approval of the director, do all things necessary to implement this chapter. However, if residue testing of a product subject to certification under this chapter is required by federal law or regulations, the testing must be conducted according to standards developed by the state chemist.

Sec. 17. The director shall adopt rules under IC 4-22-2 to implement this chapter.

Sec. 18. The panel may, subject to the approval of the director, seek injunctive relief for violations of this chapter.

Sec. 19. (a) A person:

(1) who uses the term:

(A) organic;

(B) certified organic; or

(C) Indiana certified organic;

alone or in combination with other words to market a product that has not been designated "certified organic" by an

accredited certifying agent under this chapter and in accordance with the Organic Foods Production Act; and

(2) who:

(A) knows; or

(B) reasonably should know;

that the product has not been designated "certified organic" by an accredited certifying agent under this chapter and in accordance with the Organic Foods Production Act;

commits a Class A infraction.

(b) Each label or each copy of a written public document containing the words "organic" or "certified organic" alone or in combination with other words used to market a product that has not been designated "certified organic" by an accredited certifying agent constitutes a separate infraction.

Chapter 9. Certification of Agricultural Products

Sec. 1. As used in this chapter, "administrator" means the governor or the governor's designee.

Sec. 2. As used in this chapter, "agricultural product" includes a plant or part of a plant or plant byproduct lawfully grown in Indiana.

Sec. 3. As used in this chapter, "buyer" means a buyer of an agricultural product bought for direct shipment to a person in a foreign country.

Sec. 4. The administrator may certify that a certain agricultural product meets the specifications of a buyer of the agricultural product.

Sec. 5. The administrator shall charge a fee to cover the costs of certification under this chapter.

Sec. 6. The administrator has all power necessary to implement this chapter.

Sec. 7. Neither the administrator nor the state incurs any liability for lawful actions taken under this chapter.

Sec. 8. A person who intentionally or knowingly forges a certification or the identification of an agricultural product under this chapter commits a Class D felony.

Chapter 10. Agricultural Marketing and Research

Sec. 1. The general assembly declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and

is indispensable to the maintenance of high employment and to the welfare and prosperity of the state.

Sec. 2. (a) To accomplish the objectives stated in section 1 of this chapter by making a scientific approach through research, study, experimentation, education, extension market, and news services, and through cooperation among state and federal agencies, appropriate organizations, and private industry, there is appropriated, from money in the state general fund not otherwise appropriated, to Purdue University for the use and benefit of its agricultural research programs and cooperative extension service fifty thousand dollars ($50,000) for each state fiscal year solely for purposes of this chapter and in addition to other funds appropriated to Purdue University.

(b) Purdue University may, through its agricultural research programs and cooperative extension service, conduct, assist, and foster research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products to do the following:

(1) Improve marketing methods.

(2) Reduce distribution costs.

(3) Develop new and wider markets.

(4) Provide for the dissemination of information to implement this chapter, including more effective use of agricultural products, consumer education, and quality improvement so that agricultural products may be marketed in an orderly manner and to the best interest of the producers and consumers.

(c) Money appropriated by this chapter shall be used for payment of salaries, supplies, traveling expenses, and any other expenses considered necessary to implement this chapter, including money that Purdue University considers necessary for the expenses of appropriate organizations and private industries cooperating in the program.

Sec. 3. Purdue University is designated and authorized as the agency of the state to receive:

(1) cooperative funds from the United States Department of Agriculture for research, education, and marketing services as authorized in the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); or

(2) any other cooperative funds provided by the United States Department of Agriculture for research, education, and marketing services.

Chapter 11. Promotion of Agricultural Products

Sec. 1. As used in this chapter, "agricultural commodity" means poultry, poultry products, cattle, dairy products, sheep, wool, mint, or soybeans.

Sec. 2. As used in this chapter, "commercial quantity" means a quantity produced and marketed through commercial channels of trade.

Sec. 3. As used in this chapter, "commodity market development council" refers to a group representative of the agricultural commodity.

Sec. 4. As used in this chapter, "dean of agriculture" refers to the dean of agriculture of Purdue University. The term includes the dean's designee.

Sec. 5. As used in this chapter, "director" refers to the director of the department of agriculture.

Sec. 6. As used in this chapter, "handler" means a person who engages in the selling, marketing, or distribution of an agricultural commodity that the person:

(1) has purchased for resale; or

(2) is marketing on behalf of a producer.

The term includes a producer who distributes an agricultural commodity that the producer has produced.

Sec. 7. As used in this chapter, "processor" means a person engaged in the receiving, grading, packing, canning, freezing, drying, or other methods of preparation for market of agricultural commodities produced in Indiana for sale.

Sec. 8. As used in this chapter, "producer" means an individual, a firm, a limited liability company, a corporation, a partnership, or an unincorporated association engaged in Indiana in the business of producing for market or receiving income from an agricultural commodity in commercial quantities.

Sec. 9. (a) A marketing program proposed or adopted under this chapter may include any of the following:

(1) Market development and research programs.

(2) Market promotion, education, and public relations programs.

(3) Market information services.

(4) The right to contract with qualified organizations, agencies, or individuals for any of the activities described in subdivision (1), (2), or (3).

(b) A commodity market development council organized under this chapter may not do any of the following:

(1) Establish, promulgate, or fix the price of an agricultural commodity.

(2) Limit the production of an agricultural commodity in any way.

(3) Use the fees collected under this chapter for political or legislative activity of any kind.

Sec. 10. (a) A representative group of at least five percent (5%) of the producers of an agricultural commodity may petition the dean of agriculture for permission to establish a commodity market development council.

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

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

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

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

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

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

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

be producers selected by producers.

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

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

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

Sec. 11. (a) A hearing held under section 12 of this chapter must be public, and a permanent record must be made of all testimony received. The dean of agriculture shall conduct the hearing and may make the determination from the record.

(b) The dean of agriculture shall give notice of the hearing by publication in trade journals and newspapers of general circulation in each area affected not later than ten (10) days before the date of the hearing. The representative group must pay all fees for initial organization in cash to the dean. Initial organization fees may not be paid from state money.

(c) The dean of agriculture shall do the following:

(1) Make and publish findings based upon the facts, testimony, and evidence received at the public hearing.

(2) Provide for copies of the dean of agriculture's findings and decisions to be delivered or mailed to all parties of record appearing at the hearing or the parties' attorneys of record.

Sec. 12. (a) If the director approves the petition, in whole or as revised, the director shall call a referendum among producers of commercial quantities of the commodity to vote upon establishment of the proposed commodity market development program.

(b) Before issuance of a notice of referendum on a proposed commodity market development program, the director shall establish the number of producers qualified of that particular agricultural commodity. The producers must register with the director, who shall maintain a list of those producers. At least twenty percent (20%) of the producers must register before a referendum may be held. The director shall establish a registration period for establishing, continuing, changing, or terminating a

marketing program after the director calls for a referendum. Postdating of a registration is void. The producer or handler list established under this subsection is final and conclusive in making determinations relative to the assent of producers upon the issuance, amendment, or termination of a commodity market development program.

(c) The director shall publish a notice of referendum to the attention of producers in the newspapers or trade journals within the affected area that the director prescribes. The director may also mail notice to all producers or handlers on the current list of producers.

(d) If the majority of those who actually vote favor the adoption of the proposal in the petition, the director shall declare the proposal to be adopted.

(e) A proposal to change the amount of the fee or to make other major changes in the program may be made only if a proposal for the change is adopted by a two-thirds (2/3) vote of the commodity market development council or by petition of twenty-five percent (25%) of the agricultural commodity producers. The proposal must then be submitted to a referendum under which the same percentages of votes favoring the proposal (by number and production) are required for approval as were required for establishment of the original market development program.

(f) A proposal to terminate a commodity market development program may be made only if a proposal for termination is adopted by a majority of the commodity market development council or by petition of two percent (2%) of the agricultural commodity producers. The proposed termination must be submitted to a referendum under which a simple majority of those voting in favor of termination of the program is required for termination.

(g) A referendum to:

(1) set up a commodity market development council for a particular commodity;

(2) change the amount of fee;

(3) make other major changes; or

(4) terminate a commodity market development council;

may not be held within twelve (12) months of a referendum conducted for a similar purpose for the same agricultural

commodity.

(h) The director shall conduct a referendum on the continuation of the commodity market development council at least one (1) time every three (3) years.

(i) Any eligible producer may register to participate in a referendum on the continuation or termination of a program. Registration for such a referendum may not be limited to those producers who registered for the referendum to establish the program.

Sec. 13. The director shall be guided by the advice, recommendations, and assistance of the commodity market development council about:

(1) the collection and expenditures of funds; and

(2) audits and refunds;

associated with the commodity market development program.

Sec. 14. (a) As used in this section, "commercial channel of trade" means that series of transactions leading directly from the final producer of the agricultural commodity to the purchase of the agricultural commodity by a processor.

(b) The fee for an agricultural commodity imposed under this chapter must be paid when the final producer places the agricultural commodity in a commercial channel of trade.

Sec. 15. (a) Except as provided in subsection (b), the director shall collect the fee imposed under the commodity market development program from the producers, handlers, or processors.

(b) This subsection applies to a commodity market development program for cattle, dairy products, or soybeans. The director shall collect ninety-seven percent (97%) of the fee imposed under the commodity market development program from the producers, handlers, or processors. A producer, handler, or processor may retain the remaining three percent (3%) as compensation for collecting the fee.

(c) If a market development fee is unpaid on the date that the fee was due, a penalty of one percent (1%) per month is imposed beginning on the date the fee was due until payment plus the penalty is received by the director. If, after notice, a person defaults in a payment of the fee or penalties imposed under this subsection, the amount due shall be collected by civil action in the name of the state of Indiana at the request of the director, and the

person adjudged in default shall pay the costs of the action. The attorney general, at the request of the director, and, if requested by the attorney general, the prosecuting attorney of any county, in which a cause of action arose under the provisions for the collection of fees due and unpaid, shall institute proper action in an Indiana court for the collection of unpaid fees and penalties.

(d) The individual commodity council market development fund is established. The fund consists of all fees paid to the director under that agricultural commodity program. The director shall spend all money credited to the fund, less administration expenses, for the use and benefit of the commodity market development council for which the fund is established.

(e) The director shall submit an annual statement to the commodity market development council that shows all receipts, administration expenses, refunds, and the balance credited to the fund.

(f) Not more than one (1) fee may be collected for an agricultural commodity under this chapter or under a federal program for promotion or market development.

Sec. 16. The state board of accounts shall audit the funds received and expended by the commodity market development council under this chapter.

Sec. 17. The director shall assist a commodity market development council to do the following:

(1) Elect a chairperson and any other officers.

(2) Authorize the expenditure of a budgeted amount of the council market development fund in the administration of the commodity market development program.

(3) Collect commodity market development fees.

(4) Perform other necessary duties.

Sec. 18. (a) A producer or handler is entitled to have the fees paid by the producer or handler refunded as provided in this section.

(b) A producer or handler must file a request for refund with the director not later than one hundred eighty (180) days after the payment of the fees.

(c) The director shall provide forms for the request of refund of fees under this section. A refund form shall be made available to a producer or handler when payment is made.

(d) For the purpose of making an application for a refund, a producer is considered the agent of all persons who have an interest in the agricultural commodity. The interest of each person in the agricultural commodity must be indicated on the refund request form, and the refund shall be paid to each interested person's interest according to that person's interest.

Chapter 12. Indiana Corn Market Development

Sec. 1. This chapter applies to all kinds and varieties of corn marketed or sold as corn by a producer in Indiana.

Sec. 2. As used in this chapter, "bushel" means fifty-six (56) pounds of corn by weight.

Sec. 3. As used in this chapter, "corn" does not include sweet corn, seed corn, or popcorn.

Sec. 4. As used in this chapter, "council" refers to the Indiana corn marketing council established by section 17 of this chapter.

Sec. 5. As used in this chapter, "dean of agriculture" refers to the dean of agriculture of Purdue University.

Sec. 6. As used in this chapter, "director" refers to the director of the department of agriculture or the person designated by the director of the department of agriculture to carry out duties imposed on the director of the department of agriculture under this chapter.

Sec. 7. As used in this chapter, "first purchase" means a sale of corn at the first point of delivery when the corn is weighed and graded and title to the corn is transferred.

Sec. 8. (a) As used in this chapter, "first purchaser" means a person who is engaged in Indiana in the business of buying corn from producers. The term refers to a person buying or acquiring corn from:

(1) the producer of the corn; or

(2) the Commodity Credit Corporation, if the corn is pledged as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(b) The term does not include a buyer of corn who buys less than one hundred thousand (100,000) bushels of corn annually for the buyer's own use as seed or feed.

Sec. 9. As used in this chapter "grain" has the meaning set forth in IC 26-4-1-13.

Sec. 10. As used in this chapter, "market development" means to:

(1) provide for the development of new or larger domestic and foreign markets for corn;

(2) promote the production and marketing of renewable fuels and new technologies that use corn; and

(3) access federal government money available to the state to further the market development activities described in subdivisions (1) and (2).

Sec. 11. As used in this chapter, "marketing year" means the twelve (12) month period beginning October 1 and ending the following September 30.

Sec. 12. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

Sec. 13. As used in this chapter, "producer" means a person engaged in the business of producing and marketing corn in Indiana under the producer's own name.

Sec. 14. As used in this chapter, "promotion" means:

(1) communication directly with corn producers;

(2) technical assistance; and

(3) trade marketing activities;

to enhance the marketing opportunities of corn for corn products in domestic and foreign markets.

Sec. 15. As used in this chapter, "research" means a study to advance the:

(1) marketability;

(2) production;

(3) product development;

(4) quality; or

(5) functional or nutritional value;

of corn or corn products, including a research activity designed to identify and analyze barriers to domestic and foreign sales of corn or corn products.

Sec. 16. As used in this chapter, "sale" means a conveyance of title to corn or the pledge or other encumbrance of corn as security for a loan extended by the Commodity Credit Corporation under a federal price support loan program.

Sec. 17. (a) The Indiana corn marketing council is established. The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.

(b) The council consists of seventeen (17) voting and eight (8) ex officio, nonvoting members. The elected members from districts listed under section 21(a) of this chapter must be:

(1) registered as voters in Indiana;

(2) at least eighteen (18) years of age; and

(3) producers.

(c) Each elected member of the council must reside in the district identified in section 21(a) of this chapter from which the member is elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. However, council members are not entitled to a salary or per diem.

Sec. 18. (a) The term of office of an elected or appointed council member is three (3) years. A member's term of office expires at the end of the final marketing year in the term. However, a member continues in office until a successor who meets the qualifications set forth in section 17(b) of this chapter is elected.

(b) An elected or appointed council member may not hold office for more than three (3) consecutive full terms.

Sec. 19. (a) If a member of the council elected or appointed under section 21(a), 21(b), 21(c), or 21(d) of this chapter ceases to meet one (1) or more of the qualifications set forth in section 17(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) Whenever an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 17(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) Whenever the office of a council member appointed under

section 21(e), 21(g), or 21(h) of this chapter becomes vacant before the expiration of the member's term of office, the dean of agriculture shall fill the vacancy by appointing a replacement member who represents the group from which the member was originally appointed. The appointee shall serve for the remainder of the unexpired term.

(d) Whenever the office of a member appointed under section 21(f) of this chapter becomes vacant, the appointing authority who appointed the member shall fill the vacancy. An appointee under this subsection shall serve for the remainder of the unexpired term.

Sec. 20. (a) When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. These individuals may not participate in votes taken by the council but are eligible for reimbursement for traveling expenses.

(b) A person appointed under this section serves a term of three (3) years.

(c) A person appointed under this section may not serve for more than three (3) consecutive full terms.

Sec. 21. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, DeKalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

(b) Six (6) council members shall be elected to represent all counties in Indiana.

(c) The dean of agriculture shall appoint one (1) representative of the largest general farm organization in Indiana to serve as a member of the council.

(d) The dean of agriculture shall appoint one (1) representative of the second largest general farm organization in Indiana to serve as a member of the council.

(e) The director shall appoint two (2) representatives of first purchaser organizations to serve as nonvoting members of the council.

(f) Four (4) members serve on the council, to be appointed as nonvoting members as follows:

(1) One (1) member appointed by the president pro tempore of the senate.

(2) One (1) member appointed by the minority leader of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the house of representatives.

The members appointed under this subsection are ex officio members of the council. The members of the senate must be of different political parties. The members of the house of representatives must be of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

(g) The dean of agriculture or the dean's designee shall serve as an ex officio, nonvoting member of the council.

(h) The secretary of agriculture or the secretary's designee shall serve as an ex officio, nonvoting member of the council.

Sec. 22. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between January 1 and March 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

Sec. 23. (a) The ballot for the election of a district council member must include the name of each producer who:

(1) meets the qualifications set forth in section 17(b) of this chapter; and

(2) files with the council, before June 30 of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The council shall provide petition forms upon request and shall make forms available:

(1) at cooperative extension service offices located in the district; and

(2) via the council's Internet web site.

(c) The council shall allow a producer to request a ballot through the council's Internet web site.

(d) A name other than the names of the producers who have qualified under this section may not be printed on the ballot by the council. All names on the ballot must be listed in alphabetical order based on the producer's surname.

(e) The council shall require each producer who submits a ballot to provide a separate attestation that the person is an eligible producer.

Sec. 24. (a) For purposes of the election of a district council member, the council shall provide an absentee ballot to every producer who:

(1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election; and

(2) requests an absentee ballot from the council at least five (5) days but not more than thirty (30) days before the election.

(b) A producer's absentee ballot is not valid unless the council receives the ballot from the producer at least two (2) days before

the election.

Sec. 25. (a) The director shall appoint election judges for the election of council members. The director shall also appoint a teller committee to count absentee ballots and to canvass and certify results of elections of council members.

(b) Each election judge or teller committee member appointed under this section is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with official duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency, but is not entitled to any salary or per diem.

Sec. 26. The election of a district council member must be conducted by the council in August at voting places located in the district. The winner of an election takes office on the following October 1.

Sec. 27. (a) The council shall do the following:

(1) Elect a president, vice president, secretary, treasurer, and other officers the council considers necessary.

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

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

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

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

(6) Annually publish an activities report and audit and present the report and audit to the director, the dean of agriculture, and the legislative council. The report and audit must be:

(A) sent to the legislative council in an electronic format under IC 5-14-6; and

(B) available on the council's Internet web site.

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

(8) Formulate and execute assessment procedures and

methods of collection.

(9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within the council's authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a certified public accountant.

(12) Establish and maintain an Internet web site.

(13) Take any other action necessary for the proper implementation of this chapter.

(b) A majority of the voting members of the council constitutes a quorum. The affirmative votes of at least a majority of the quorum, and at least nine (9) affirmative votes, are required for the council to take action.

Sec. 28. (a) The council shall meet at least three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

Sec. 29. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money the council receives under this chapter, including gifts or grants that are given for the express purpose of implementing this chapter, in the same way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for market development, promotion, and research.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

Sec. 30. (a) The Indiana corn market development account is established within the state general fund for purposes of market development and reimbursing the state for the E85 retail merchant deduction allowed under IC 6-2.5-7-5(d). The account shall be

administered by the council. The account consists of:

(1) assessments the council receives under this chapter;

(2) gifts; and

(3) grants.

(b) The expenses of administering this chapter must be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars ($500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars ($500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars ($500,000) for administrative expenses.

(c) On July 1 of each year the budget agency shall transfer from the account an amount equal to the lesser of:

(1) twenty-five percent (25%) of the balance of the account on the immediately preceding June 30, before the deduction of any expenses under subsection (b); or

(2) the sum of all retail merchant deductions allowed under IC 6-2.5-7-5(d) and IC 6-2.5-7-5.5, in the immediately preceding state fiscal year.

The amount transferred under this subsection shall be deposited in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

(d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund.

Sec. 31. (a) Obligations incurred by the council and other liabilities and claims against the council may be enforced only against the assets of the council in the same manner as if the council were a corporation. Liabilities for the debts or actions of the council may not arise against:

(1) the state;

(2) a political subdivision (as defined in IC 34-6-2-110); or

(3) a member, an officer, an employee, or an agent of the

council in an individual capacity.

(b) The members and employees of the council may not be held responsible individually in any way to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) An employee of the council may not be held responsible individually for the act or omission of any member of the council.

(d) Any liability of the members of the council is several and not joint. A member of the council may not be held liable for the default of any other member.

Sec. 32. (a) An assessment of one-half cent ($0.005) per bushel must be collected on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and must be collected by the first purchaser. A buyer of corn who purchases more than one hundred thousand (100,000) bushels annually for the buyer's own use as seed or feed is responsible only for collecting checkoff assessments on corn purchases made after the buyer exceeds the one hundred thousand (100,000) bushel threshold and becomes a first purchaser. The rate of the assessment imposed by this section may be changed only by the general assembly.

(b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

(1) January, February, and March.

(2) April, May, and June.

(3) July, August, and September.

(4) October, November, and December.

(c) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within thirty (30) days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

Sec. 33. (a) If a producer has sold corn and the state assessment was deducted from the sale price of the corn, the producer may

secure a refund equal to the amount deducted upon filing a written application.

(b) A producer's application for a refund under this section must be made to the council not more than one hundred eighty (180) days after the state assessment is deducted from the sale price of the producer's corn.

(c) The council shall provide application forms to a first purchaser for purposes of this section upon request and make application forms available on the council's Internet web site. Before July 1, 2009, a first purchaser shall provide an application form to each producer along with each settlement form that shows a deduction. After June 30, 2009, a first purchaser shall make application forms available in plain view at the first purchaser's place of business.

(d) Proof that an assessment has been deducted from the sale price of a producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser. The claim form and proof of assessment may be mailed or faxed to the council. The refund form must clearly state how to request a refund, the address where the form may be mailed, and the fax number where the form may be faxed.

(e) If a refund is due under this section, the council shall remit the refund to the producer not later than thirty (30) days after the date the producer's application and proof of assessment are received.

Sec. 34. The checkoff assessment and remittance record form must:

(1) be in a format that allows a corn producer to submit the same form for an assessment refund;

(2) contain the address and fax number of the location to which the assessment refund form may be sent;

(3) contain information concerning procedures to claim an assessment refund; and

(4) contain any other information determined necessary by the council.

Sec. 35. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter for at least

three (3) years.

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records kept under subsection (a). An audit must be conducted by a qualified public accountant of the council's choosing, and the costs of the audit shall be paid by the council.

Sec. 36. (a) If a first purchaser fails to remit the assessments collected during a period specified in section 32 of this chapter within thirty (30) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

(1) the status and amount of the assessments due; and

(2) reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

(1) may adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate;

(2) may assess a penalty against the first purchaser;

(3) shall:

(A) assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and

(B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;

(4) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(5) shall determine the date of a payment for purposes of this subsection by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being

allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in a circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and

(2) an award of the costs of bringing the action.

Sec. 37. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.

(b) Proceeds of the assessment collected under this chapter may be used to communicate information related to the:

(1) conduct;

(2) implementation; or

(3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

Sec. 38. (a) For the marketing year beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during the marketing year, the council shall:

(1) cease collecting the assessment on January 1 of the subsequent year;

(2) maintain a sufficient amount of money to pay any refunds requested by producers; and

(3) request that the legislative council have legislation prepared to repeal the corn market law.

(b) If for the marketing year beginning October 1, 2009, less than twenty-five percent (25%) of the assessments are refunded, the council shall review the refunds for each year beginning with the marketing year beginning October 1, 2010. If refunds exceed twenty-five percent (25%) in two (2) consecutive marketing years,

the council shall:

(1) cease collecting the assessment on January 1 of the subsequent year;

(2) maintain a sufficient amount of money to pay any refunds requested by producers; and

(3) request that the legislative council have legislation prepared to repeal the corn market law.

(c) The dean of agriculture and the council shall report to the legislative council the amounts collected and refunded. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 39. (a) If a person fails to discharge a duty imposed by this chapter other than remitted assessments, the council shall allow the person an opportunity to present comments to the council concerning reasons why the council should not bring legal action against the person. If it is necessary to obtain compliance with this chapter, the council may bring an action against the person in a circuit, superior, or municipal court of any county seeking an injunction mandating compliance and any other appropriate legal remedies.

(b) In an action under this section, the council may be granted injunctive relief without establishing the absence of an adequate remedy at law.

SECTION 7. IC 15-16 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 16. HORTICULTURE CONTROL

Chapter 1. Agricultural Ammonia

Sec. 1. Except as provided in this chapter, this chapter applies to all facilities for the distribution of ammonia or ammonia solutions that are located in Indiana.

Sec. 2. As used in this chapter, "ammonia" means agricultural anhydrous ammonia (NH_3) fertilizer.

Sec. 3. As used in this chapter, "ammonia solution" means an agricultural ammonia solution that:

(1) contains by weight at least ten per cent (10%) free ammonia; or

(2) has a vapor pressure of at least one (1) pound per square inch gauge (PSIG) at one hundred four (104) degrees

Fahrenheit.

Sec. 4. As used in this chapter, "distribute" means to:

(1) offer for sale;

(2) sell;

(3) barter; or

(4) supply;

ammonia or ammonia solutions to a person for agricultural purposes as a fertilizer. The term does not include a shipment made to a point or points outside Indiana.

Sec. 5. As used in this chapter, "person" means:

(1) an individual;

(2) a firm;

(3) a partnership;

(4) an association;

(5) a corporation;

(6) a company;

(7) a joint stock association;

(8) a body politic;

(9) an organized group of persons whether incorporated or not incorporated;

(10) a trustee;

(11) an assignee; or

(12) any other representative of an entity described in subdivisions (1) through (11).

Sec. 6. The state chemist or the state chemist's agent shall administer this chapter.

Sec. 7. (a) The rules adopted under this chapter must be uniform in force and effect throughout Indiana.

(b) This chapter does not impair the power of a municipality or other political subdivision of this state to regulate the use of land by zoning regulations or building codes.

Sec. 8. (a) Before installing facilities for the distribution of ammonia or ammonia solutions, a person shall, on forms provided by the state chemist, apply for approval of the location of the proposed distribution facilities. The application must include a statement that the installation will comply with all local zoning regulations and building codes.

(b) If the state chemist determines that the location meets the requirements of this chapter and the rules adopted under this

chapter, the state chemist shall issue written approval of the location not later than thirty (30) days after receipt of the application. If the state chemist determines that the location does not meet the requirements of this chapter and the rules adopted under this chapter, the state chemist shall issue written disapproval of the location not later than thirty (30) days after receipt of the application.

(c) Distribution facilities installed before December 30, 1965, are exempt from the requirements for location approval.

(d) A public way may not be placed closer to an existing distribution facility than the distance required by rules adopted under this chapter.

Sec. 9. (a) The state chemist or the state chemist's agent shall inspect distribution facilities and operating procedures at reasonable times and to the extent reasonably necessary to determine whether the distribution facility complies with this chapter and the rules adopted under this chapter.

(b) The state chemist or the state chemist's agent may enter any public or private premises at reasonable hours in order to:

(1) have access to and inspect facilities, equipment, and vehicles of transport not principally engaged in interstate commerce; and

(2) observe procedures used in the distribution, application, or use of ammonia or ammonia solutions.

Sec. 10. (a) The state chemist shall adopt rules establishing the minimum safety standards for the design, construction, location, installation, and operation of equipment for storage, handling, use, and transportation (not otherwise regulated) of ammonia and ammonia solutions.

(b) The rules described in subsection (a) must be:

(1) reasonably necessary to protect the safety of the public, including persons handling or using the materials; and

(2) in substantial conformity with the current nationally accepted standards of safety that apply to the equipment described in subsection (a).

(c) The state chemist shall adopt the rules described in subsection (a) only after a notice and public hearing.

Sec. 11. All equipment for the storage, handling, distribution, and use of ammonia or ammonia solutions must be installed and

maintained:

(1) in a safe operating condition; and

(2) in conformity with the rules adopted under section 10 of this chapter.

Sec. 12. (a) If the state chemist or the state chemist's agent finds a violation of this chapter or the rules adopted under this chapter, the state chemist or the state chemist's agent may issue an order to the owner, the owner's agent, or the operator of the facility or equipment involved directing that the violation be corrected immediately.

(b) The state chemist or the state chemist's agent shall grant a request for a reasonable extension of time to comply with an order described in subsection (a) if:

(1) there is practical difficulty in complying with the order; and

(2) the time extension will not cause a safety hazard to the public, including persons who use the facility or equipment.

(c) An order issued under this section must be in writing.

Sec. 13. A person may not:

(1) install facilities for distribution of ammonia or ammonia solutions without first obtaining written approval of the state chemist for the location;

(2) distribute ammonia or ammonia solutions from an unapproved location for which approval is required under this chapter;

(3) distribute, store, transport, or use ammonia or ammonia solutions in violation of this chapter or the rules adopted under this chapter;

(4) violate a correction order issued under section 12 of this chapter; or

(5) use an ammonia or ammonia solutions container for any purpose without the prior authorization of the owner of the container.

Sec. 14. (a) A person who violates this chapter commits a Class C infraction.

(b) The prosecuting attorney of any judicial circuit in which a violation has occurred and to whom the state chemist has reported a violation shall institute the appropriate proceedings and prosecute the proceedings in a court.

(c) Before the state chemist reports a violation for prosecution as described in subsection (b), the state chemist shall give the person charged with a violation an opportunity to respond to the charges. The state chemist need not report for prosecution minor violations of this chapter if the state chemist believes that the public interest is best served by another action.

Sec. 15. In addition to any other remedy provided by law, the state chemist may apply for a temporary or permanent injunction restraining a person from violating or continuing to violate this chapter or any rule adopted under this chapter. An injunction shall be issued without bond.

Chapter 2. Commercial Fertilizers

Sec. 1. Because the department of biochemistry at Purdue University is particularly conversant with the purpose and procedures provided by this chapter, the general assembly desires that the governor appoint a professor of biochemistry at Purdue University as the state chemist.

Sec. 2. This chapter may not be construed:

(1) to restrict or avoid sales or exchanges of commercial fertilizers among importers, manufacturers, or blenders who mix fertilizer materials for sale; or

(2) as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or blenders who have registered their brands as required by this chapter.

Sec. 3. As used in this chapter, "blender" means a person who is engaged in the business of blending fertilizer materials.

Sec. 4. As used in this chapter, "blending" means the physical mixing or combining of at least two (2) fertilizer materials. The term includes the simultaneous application of at least two (2) fertilizer materials to produce a uniform mixture.

Sec. 5. As used in this chapter, "board" refers to the Indiana fertilizer advisory board established by section 25 of this chapter.

Sec. 6. As used in this chapter, "brand" means a term, design, or trademark used in connection with at least one (1) grade of fertilizer.

Sec. 7. As used in this chapter, "bulk fertilizer" means a fertilizer distributed in nonpackaged form.

Sec. 8. As used in this chapter, "commercial fertilizer" means mixed fertilizer or fertilizer materials. The term does not include

nonprocessed manure, marl, lime, wood ashes, or plaster.

Sec. 9. As used in this chapter, "custom blend" means a fertilizer blended:

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

(2) to meet consumer requirements specified before blending.

Sec. 10. As used in this chapter, "distributor" means a person who:

(1) offers for sale;

(2) sells;

(3) barters; or

(4) supplies;

commercial fertilizers.

Sec. 11. As used in this chapter, "fertilizer material" means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that is:

(1) used for the plant nutrient content; and

(2) designed to have value in promoting plant growth.

The term includes unmanipulated animal and vegetable manures.

Sec. 12. As used in this chapter, "grade" means the minimum percentages of the following elements stated in the following order:

(1) Total nitrogen (N).

(2) Available phosphate (P_2O_5).

(3) Soluble potash (K_2O).

Sec. 13. As used in this chapter, "mixed fertilizer" means any combination or mixture of fertilizer materials:

(1) designed for use; or

(2) claimed to have value;

in promoting plant growth.

Sec. 14. As used in this chapter, "official sample" means any sample of commercial fertilizer taken by the state chemist or the state chemist's agent.

Sec. 15. As used in this chapter, "permit" refers to a permit issued under section 34 of this chapter to report the tonnage of commercial fertilizer sold.

Sec. 16. As used in this chapter, "percent" or "percentage" means the percentage by weight.

Sec. 17. As used in this chapter, "person" means:

(1) an individual;

(2) a partnership;

(3) an association;

(4) a firm;

(5) a limited liability company; or

(6) a corporation.

Sec. 18. As used in this chapter, "registrant" means a person who registers fertilizer under this chapter.

Sec. 19. As used in this chapter, "sell" or "sale" includes exchange.

Sec. 20. As used in this chapter, "specialty fertilizer" means a fertilizer distributed for nonfarm use.

Sec. 21. As used in this chapter, "storage" means the storage of bulk fertilizer by a person who:

(1) manufactures or distributes bulk fertilizer; or

(2) stores bulk fertilizer for personal use.

Sec. 22. As used in this chapter, "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

Sec. 23. As used in this chapter, "use" means the process of placing fertilizer to promote plant growth.

Sec. 24. (a) The office of state chemist is established.

(b) The governor shall appoint the state chemist, who serves at the pleasure of the governor.

(c) The state chemist shall administer this chapter.

(d) The state chemist may designate an agent to discharge duties imposed on the state chemist by law.

Sec. 25. (a) The Indiana fertilizer advisory board is established to:

(1) study the regulation of fertilizer; and

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

(b) The board consists of the following members:

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

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

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

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

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

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

organization.

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

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

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

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

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

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

Sec. 26. (a) The state chemist may remove a voting member of the board for cause before the expiration of the member's term.

(b) Vacancies created by the death, resignation, or removal for cause of a member of the board must be filled in the manner prescribed for appointment to that board position. Vacancies must be filled not later than thirty (30) days after the death, resignation, or removal for cause.

Sec. 27. The board shall elect one (1) of its voting members chairperson to serve for a term of two (2) years, unless the chairperson's appointment expires before the expiration of the term, in which case the term is for the duration of the chairperson's appointment.

Sec. 28. The board shall invite nonvoting members to serve at the pleasure of the board.

Sec. 29. (a) The board may meet at times specified by the chairperson or by a majority of the board, but shall meet at least once a year.

(b) Five (5) voting members of the board constitutes a quorum. Official actions require a majority of the voting members. The chairperson may actively participate in all decisions of the board.

Sec. 30. Each member of the board who is not a state employee is entitled to receive both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as

provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 31. (a) Before distributing commercial fertilizer in Indiana, the person whose name appears on the label of each brand and grade of the fertilizer must submit:

(1) an application for registration to the state chemist on a form furnished by the state chemist; and

(2) the appropriate filing fee set forth in subsection (b).

(b) The filing fee for fertilizers sold in packages weighing more than twelve (12) pounds is twenty dollars ($20) for each grade of each brand. The filing fee for fertilizers sold in packages weighing not more than twelve (12) pounds is fifty dollars ($50) for each grade of each brand.

(c) Upon approval of the application, the state chemist shall furnish a copy of the registration to the applicant.

(d) All registrations expire on June 30 each year.

(e) In addition to the appropriate filing fee set forth in subsection (b), a late filing fee equal to one hundred percent (100%) of the appropriate filing fee is assessed when:

(1) an application to renew the registration of a commercial fertilizer under this section is received after July 31; or

(2) a product that must be registered under this section is found to be in distribution before registration.

(f) An application under subsection (a) must include the following information:

(1) The name and address of the registrant.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen (N)	**percent**
Available Phosphate (P_2O_5)	**percent**
Soluble Potash (K_2O)	**percent**

(g) The minimum percentage of plant food in mixed fertilizers under subsection (f)(3) must be given in whole numbers only. However, the state chemist may allow fractional numbers to be used under subsection (f)(3) for specialty fertilizers or if plant food elements or other additives are added.

(h) For unacidulated mineral phosphatic materials and basic slag:

(1) the total phosphate;

(2) the available phosphate; and

(3) the degree of fineness;

must be guaranteed. For bone, tankage, and other natural organic phosphate materials, only the total phosphate must be guaranteed.

(i) Additional plant food elements or other additives that are determinable by chemical methods may be guaranteed only by permission of the state chemist. The state chemist shall grant permission only if the state chemist determines, with the advice of the dean of agriculture of Purdue University or the dean's designee, that the guarantee would not constitute a misrepresentation and is correct. Additional plant foods that are guaranteed:

(1) must be included in the guarantee in the form of the element; and

(2) are subject to inspection and analysis in accordance with the methods that the state chemist prescribes.

(j) A distributor is not required to register a brand of commercial fertilizer that is registered under this chapter by another person if the label used by the distributor does not differ in any respect from that used by the registrant.

(k) A distributor who acts as a blender is not required under subsection (a) to register a custom blend that the distributor produces if the fertilizer materials blended together to produce the custom blend are registered under subsection (a). However, a distributor who acts as a blender shall provide the state chemist with the following information about each custom blend that the distributor produces:

(1) The name and address of the distributor.

(2) The brand and grade of the custom blend.

(3) The guaranteed analysis of the custom blend showing the minimum percentage of plant food claimed in the following order and form:

(A) The percent of total nitrogen (N).

(B) The percent of available phosphate (P_2O_5).

(C) The percent of soluble potash (K_2O).

Sec. 32. (a) The bag or other container in which any commercial fertilizer is offered for sale, sold, or distributed in Indiana must have a written or printed statement of the net weight and the information required by section 31 of this chapter:

(1) on tags affixed to the end of the package:

(A) between the ears;

(B) on the sewed end; or

(C) in both locations described in clauses (A) and (B); or

(2) directly on the package.

(b) If the commercial fertilizer is distributed in bulk, the written or printed statement required by section 31 of this chapter must:

(1) accompany the fertilizer at delivery; and

(2) be supplied to the purchaser at time of delivery.

Sec. 33. (a) Except as provided in subsection (c), a person who distributes commercial fertilizers:

(1) in bulk; or

(2) in packages weighing more than twelve (12) pounds;

in Indiana to a person who is not a registrant or permit holder under this chapter shall pay to the state chemist an inspection fee computed under subsection (b).

(b) The inspection fee charged under subsection (a) is forty-five cents ($0.45) per ton for each ton of commercial fertilizer distributed. If a fertilizer tonnage report is required under this chapter, the minimum inspection fee is ten dollars ($10) payable semiannually.

(c) Sales or exchanges between importers, manufacturers, distributors, or registrants are exempt from the inspection fee.

Sec. 34. (a) Each registrant shall apply to the state chemist for a permit to report the tonnage of commercial fertilizer sold and pay the inspection fee of forty-five cents ($0.45) per ton on the basis of the report. In making the application, the registrant must agree to the following:

(1) To keep records that the state chemist requires to indicate accurately the tonnage and kinds of commercial fertilizers sold in Indiana.

(2) To grant the state chemist permission to examine those

records and verify the statement of tonnage.

(3) To report under oath to the state chemist on forms furnished by the state chemist the tonnage of commercial fertilizer sold during the period covered.

(b) The state chemist:

(1) may grant the permit if the state chemist determines that the tonnage report of fertilizer described in subsection (a) will lead to efficient enforcement of this chapter; and

(2) may revoke the permit at any time if it appears to the state chemist that the registrant is not complying with:

(A) the terms of the agreement entered into at the time of the issuance of the permit; or

(B) this chapter.

(c) The report of tonnage is due and the inspection fees are payable semiannually on the last day of the month following the end of the semiannual period.

(d) If:

(1) the report of tonnage is not filed and the inspection fee paid by the fifteenth day following the due date;

(2) the report of tonnage is false; or

(3) the permit holder has not complied with labeling requirements of this chapter;

the state chemist may revoke the permit.

(e) If the inspection fee is unpaid after the fifteen (15) day grace period described in subsection (d), a penalty shall be assessed in the amount of:

(1) fifty dollars ($50); or

(2) ten percent (10%) of the amount due;

whichever is greater, in addition to the amount due.

Sec. 35. (a) The state chemist shall pay to the treasurer of Purdue University all inspection fees collected under this chapter.

(b) Inspection fees collected under this chapter must be used to pay all necessary expenses incurred in carrying out this chapter, including the following:

(1) Employing inspectors and chemists.

(2) Procuring samples.

(3) Printing bulletins.

(4) Giving the results of fertilizer inspections as provided for by this chapter.

(5) Any other expenses incurred by Purdue University agricultural programs:

(A) authorized by law; and

(B) in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual classified report to the governor showing the total receipts and expenditures of all fees received under this chapter.

Sec. 36. (a) Notwithstanding any other law, all excess funds accumulated from the fees collected by:

(1) the state chemist, under this chapter, IC 15-15-2, IC 15-16-4, and IC 15-19-7; and

(2) the state seed commissioner under IC 15-15-1;

shall be paid to the treasurer of Purdue University. The funds shall be administered by the board of trustees of Purdue University.

(b) On approval of the governor and the budget agency, the board of trustees may spend the excess funds for the construction, operation, rehabilitation, and repair of buildings, structures, or other facilities used for:

(1) carrying out the purposes of those chapters referred to in subsection (a) under which the fees are collected; or

(2) the agricultural programs authorized by law and in support of the purposes of the chapters referred to in subsection (a).

Sec. 37. (a) The state chemist shall publish at least annually in a form that the state chemist considers proper, information concerning the following:

(1) The sales of commercial fertilizers, including any data on sales that the state chemist considers advisable.

(2) The results of the analyses conducted under section 38 of this chapter based on official samples of commercial fertilizers sold within the state compared with the analysis guaranteed under sections 31 and 32 of this chapter.

(b) The information published by the state chemist concerning the sale of commercial fertilizers:

(1) must show separately the fall season and spring season of each year; and

(2) may not disclose the operations of any person.

Sec. 38. (a) The state chemist shall:

(1) sample, inspect, make analysis of, and test commercial

fertilizers distributed within Indiana; and

(2) inspect the storage of bulk fertilizers in Indiana at a time and place and to such an extent as necessary to determine whether the commercial fertilizers and their storage are in compliance with this chapter.

(b) The state chemist may enter upon any public or private premises during regular business hours in order to have access to:

(1) fertilizers; and

(2) plans and records relating to the transportation, storage, sale, and use of fertilizers;

subject to this chapter and the rules adopted under this chapter.

(c) The state chemist shall adopt methods of sampling and analysis from sources that may include AOAC (Association of Analytical Communities) International. In cases of dispute, AOAC International's methods prevail if AOAC International's methods are available.

(d) The state chemist shall determine for administrative purposes whether a commercial fertilizer is deficient in plant foods using only the official sample obtained and analyzed as provided in subsection (c).

Sec. 39. If an official fertilizer analysis conducted by the state chemist under section 38 of this chapter results in a determination that the registrant of a commercial fertilizer is subject to a penalty or other legal action under this chapter, the state chemist shall forward a report of the results of the analysis to the registrant at least thirty (30) days before the report is submitted to the purchaser of the fertilizer. If the analysis was requested by a person other than the state chemist, the results of the analysis shall be forwarded to the registrant and purchaser immediately. If, during the thirty (30) day period, the state chemist does not receive adequate evidence contesting the results in the report, the report becomes an official report at the expiration of the thirty (30) day period. Upon the registrant's request, the state chemist shall furnish to the registrant part of the fertilizer sample analyzed by the state chemist to determine that the registrant is subject to a penalty or other legal action under this chapter.

Sec. 40. (a) If an analysis conducted by the state chemist under section 38 of this chapter shows that a commercial fertilizer fails in any respect to meet the guaranteed analysis filed by a registrant

under section 31 of this chapter, the state chemist may require the payment of a refund to the purchaser equal to the difference between:

(1) the price the purchaser paid for the fertilizer; and

(2) the current value of the fertilizer after the state chemist's analysis.

(b) The registrant must forward receipts for payment of refunds required under subsection (a) promptly to the state chemist. If the purchaser cannot be found, the registrant shall pay the refund to a local charitable or educational organization of the registrant's choice and forward the receipts promptly to the state chemist.

(c) This section does not prevent the appeal of the imposition any penalty assessed by the state chemist under this chapter to a court with jurisdiction.

Sec. 41. Bulk fertilizers must be stored in a manner that:

(1) minimizes the release of fertilizer; and

(2) protects the waters of the state.

Sec. 42. (a) A commercial fertilizer is misbranded if:

(1) the fertilizer carries any false or misleading statement upon or attached to the container; or

(2) false or misleading statements concerning the fertilizer's agricultural value are made:

(A) on the container; or

(B) in any advertising matter accompanying or associated with the fertilizer.

It is unlawful to distribute a misbranded commercial fertilizer.

(b) It is unlawful to distribute an adulterated commercial fertilizer. For purposes of this subsection, a commercial fertilizer is adulterated if:

(1) the fertilizer contains any deleterious or harmful substance in a sufficient amount to render the fertilizer injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label; or

(2) the label does not include adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil, or water.

Sec. 43. (a) The state chemist may:

(1) cancel the registration of any brand of commercial

fertilizer; or

(2) refuse to register any brand of commercial fertilizer in accordance with this chapter;

if the state chemist receives satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of this chapter or any rule adopted under this chapter.

(b) The state chemist may not revoke or refuse a registration under subsection (a) until the registrant receives notice and has the opportunity to appear for a hearing.

Sec. 44. The state chemist may adopt rules under IC 4-22-2 concerning the following:

(1) The use of fertilizer material.

(2) The distribution and storage of bulk commercial fertilizers, including standards for the storage of bulk fertilizers to protect the waters of the state.

Sec. 45. The state chemist may allow the use of technologies or methods other than those specified in the administrative rules adopted by the state chemist under section 44 of this chapter if the technologies or methods provide substantially similar protection to the waters of the state from the release of bulk fertilizer as provided by the rules.

Sec. 46. (a) If the state chemist determines that a lot of commercial fertilizer is being offered for sale in violation of this chapter, the state chemist may issue to and enforce upon the owner or custodian of the lot:

(1) a written or printed stop sale, use, or removal order; and

(2) a written or printed order to hold the lot at a designated place until:

(A) the owner or custodian complies with the law;

(B) the state chemist releases the lot in writing; or

(C) the violation is legally disposed of by written authority.

(b) The state chemist shall release commercial fertilizer withdrawn under subsection (a) when:

(1) the owner or custodian of the lot complies with this chapter; and

(2) all costs and expenses incurred in connection with the withdrawal have been paid.

Sec. 47. (a) Any lot of commercial fertilizer not in compliance

with this chapter is subject to seizure based on a complaint of the state chemist filed in a court with jurisdiction in the area in which the commercial fertilizer is located.

(b) Subject to subsection (a), if the court finds the commercial fertilizer is in violation of this chapter and orders the condemnation of the commercial fertilizer, the fertilizer must be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state.

(c) A court may not order the disposition of any lot of commercial fertilizer without first giving the claimant an opportunity to apply to the court for:

(1) release of the commercial fertilizer; or

(2) permission to process or relabel the commercial fertilizer to bring it into compliance with this chapter.

Sec. 48. (a) A person who:

(1) knowingly makes a false statement in application for registration required in section 31 of this chapter;

(2) offers for sale, sells, or provides a sample, a package, or any quantity of any commercial fertilizer, the analysis and brand of which has not been registered as provided in section 31 of this chapter;

(3) fails to pay the fees as provided in sections 33 and 34 of this chapter; or

(4) violates this chapter;

commits a Class C infraction. In a prosecution involving the composition of a commercial fertilizer, a certified copy of the official analysis signed by the state chemist shall be accepted as prima facie evidence of the composition.

(b) The state chemist need not report, for prosecution or for the institution of seizure proceedings, minor violations of this chapter if the state chemist believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 49. The state chemist may apply for a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter. The injunction shall be issued without bond. The remedies under this subsection are supplemental to other remedies allowed under this section or other law.

Sec. 50. (a) Except as provided in subsection (b), a political

subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the storage or use of fertilizer.

(b) A political subdivision may, by resolution, petition the state chemist for a hearing to allow a waiver to adopt an ordinance because of special circumstances relating to the storage or use of fertilizer. If a petition is received, the state chemist shall hold a public hearing to consider allowing the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

Chapter 3. Commercial Lawn Care Service Fertilizers

Sec. 1. (a) Except as provided in subsection (b), IC 15-16-2 applies to a licensee.

(b) A licensee is not required to:

(1) register tank mixed liquid fertilizer grades under IC 15-16-2-31; and

(2) pay an inspection fee and file for a permit to report tonnage under IC 15-16-2-33 and IC 15-16-2-34;

when the licensee is engaged in lawn care service.

Sec. 2. The definitions in IC 15-16-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "label" means:

(1) written material;

(2) printed material;

(3) graphic material; or

(4) any other statement;

accompanying a fertilizer.

Sec. 4. As used in this chapter, "lawn care service" means service provided to private, institutional, or commercial entities for compensation to maintain and nourish:

(1) turf;

(2) shrubbery;

(3) trees; and

(4) other plants;

commonly associated with private, institutional, or commercial lawns. The term includes the application of commercial fertilizer individually or in combination with a pesticide (as defined in IC 15-16-4-30).

Sec. 5. As used in this chapter, "licensee" means a person who has been issued a license under this chapter.

Sec. 6. As used in this chapter, "tank mixed liquid fertilizer" means a fluid mixture of commercial fertilizer and water in which the total nutrient content of the mixture does not exceed the amount determined under rules adopted by the state chemist under IC 4-22-2 in accordance with current practices of the lawn care service industry.

Sec. 7. A person:

(1) who is engaged in lawn care service; and

(2) whose name must appear on the label of a fertilizer under this chapter;

must obtain a license from the state chemist before the person may distribute a tank mixed liquid fertilizer to another person.

Sec. 8. (a) To obtain a license described under section 7 of this chapter, a person must:

(1) submit an application; and

(2) pay a fee of one hundred dollars ($100) for each location from which the person distributes tank mixed liquid fertilizer:

(A) in Indiana; and

(B) outside Indiana that conducts operations in Indiana;

to the state chemist.

(b) An application for a license issued under this chapter must include:

(1) the name and address of the person applying for the license; or

(2) if the application submitted applies to at least one (1) location described under subsection (a)(2), the name and address of each location.

Sec. 9. The state chemist may adopt rules under IC 4-22-2 to establish qualifications for licenses issued under this chapter, including a training requirement necessary to assure that a person responsible for a location described under section 8(a)(2) of this chapter is in compliance with this chapter.

Sec. 10. A license issued under this chapter shall be issued in the name of the person that distributes tank mixed liquid fertilizer at the location described under section 8(a)(2) of this chapter.

Sec. 11. A license issued under this chapter:

(1) expires December 31 of each year; and

(2) may be renewed by the state chemist.

Sec. 12. A licensee shall display the name and address shown on

a license issued under this chapter on labels and invoices for fertilizers distributed in Indiana by the licensee.

Sec. 13. A licensee shall inform the state chemist in writing of:

(1) the addition of a location described under section 8(a)(2) of this chapter; and

(2) a change in:

(A) the name of the licensee's facilities; and

(B) the principal personnel associated with the licensee;

made during the time the licensee holds a license issued under this chapter.

Sec. 14. (a) A fertilizer distributed as part of lawn care service must:

(1) be labeled under IC 15-16-2-32; and

(2) include the name and address of the licensee distributing the fertilizer.

(b) The information described under subsection (a) shall be supplied in written or printed form to a purchaser of fertilizer at the time the fertilizer is delivered to the purchaser.

Sec. 15. (a) A licensee that distributes or sells fertilizer to a person in Indiana shall furnish the state chemist with an annual report showing the:

(1) quantity in tons; and

(2) grade;

of each fertilizer material used in tank mixed liquid fertilizer in each county.

(b) A report described under subsection (a) must include the:

(1) name; and

(2) range of concentration;

of each pesticide incorporated with tank mixed liquid fertilizer.

(c) A report described under this section must be made:

(1) on a form provided by the state chemist; or

(2) by any other method approved by the state chemist.

(d) A report required under this section must be filed with the state chemist before January 31 of the year following the year for which the report must be made.

Sec. 16. (a) The state chemist shall annually record information concerning the sale of commercial fertilizers used for lawn care service based on the tonnage reports required under section 15 of this chapter.

(b) An annual report issued under this section:

(1) may be made available upon written request; and

(2) may not disclose the operations of any person.

Sec. 17. The state chemist, who may act through an agent authorized by the state chemist, shall do the following:

(1) Administer this chapter.

(2) Adopt rules under IC 4-22-2:

(A) concerning the distribution of commercial fertilizers used in lawn care service; and

(B) necessary to implement this chapter.

Sec. 18. (a) If:

(1) a person applying for a license under this chapter uses fraudulent or deceptive practices to evade or attempt to evade compliance with this chapter or rules adopted under this chapter, the state chemist may refuse to issue a license to the person; or

(2) a licensee uses fraudulent or deceptive practices to evade or attempt to evade compliance with this chapter or rules adopted under this chapter, the state chemist may revoke the licensee's license.

(b) The state chemist may not:

(1) refuse to issue a license to a person; or

(2) revoke a licensee's license;

until the person or the licensee has had an opportunity to appear at a hearing conducted by the state chemist.

Sec. 19. If a licensee:

(1) does not submit a report required to be submitted under section 15 of this chapter by February 15 of a year;

(2) submits a false report under this chapter; or

(3) does not comply with label requirements under this chapter;

the state chemist may revoke the licensee's license or refuse to renew the licensee's license.

Sec. 20. (a) A person that:

(1) knowingly makes a false application for a license issued under this chapter; or

(2) violates this chapter;

commits a Class C infraction.

(b) The state chemist is not required to report minor violations

of this chapter for:

(1) prosecution; or

(2) the implementation of seizure proceedings;

if the state chemist believes that the public interest will be best served by a suitable written notice of warning.

(c) The state chemist may apply for a temporary or permanent injunction restraining a person from violating or continuing to violate this chapter or a rule adopted under this chapter. An injunction issued under this subsection shall be issued without bond.

Chapter 4. Pesticides

Sec. 1. A pesticide product is not in violation of this chapter when the product is:

(1) intended solely for export to a foreign country; and

(2) prepared or packed according to the specifications or directions of the purchaser.

However, this chapter applies if the pesticide product is not exported.

Sec. 2. As used in this chapter, "active ingredient" means:

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

(A) prevent;

(B) destroy;

(C) repel; or

(D) mitigate;

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

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

(A) ornamental or crop plants; or

(B) the produce of ornamental or crop plants;

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

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

Sec. 3. As used in this chapter, "adulterated" refers to a pesticide or pesticide product if:

(1) the strength or purity of the pesticide falls below the professed standard or quality as expressed on its labeling

under which it is sold;

(2) any substance has been substituted wholly or in part for the pesticide product; or

(3) any valuable constituent of the pesticide product has been wholly or in part removed.

Sec. 4. As used in this chapter, "antidote" means the most practical immediate treatment in case of poisoning, including first aid treatment.

Sec. 5. As used in this chapter, "aquatic ecologist" means a scientist with a degree in, extensive training in, or experience in at least one (1) of the following:

(1) Aquatic ecology.

(2) Limnology.

(3) Invertebrate zoology.

(4) Invertebrate ecology.

(5) Ichthyology.

(6) Aquatic botany.

(7) Algology.

(8) Primary production ecology.

Sec. 6. As used in this chapter, "board" means the Indiana pesticide review board established by section 42 of this chapter.

Sec. 7. As used in this chapter, "bulk pesticide" means any pesticide or mixture of pesticides that is transported or held in a reusable immediate container in undivided quantities greater than:

(1) one hundred (100) pounds net dry weight; or

(2) fifty-five (55) U.S. gallons liquid measure.

The term does not include a pesticide that is in the custody of the ultimate user and has been prepared for application by the ultimate user by diluting the pesticide according to the label directions for that pesticide.

Sec. 8. As used in this chapter, "defoliant" means any:

(1) substance; or

(2) mixture of substances;

intended to cause leaves or foliage to drop from a plant with or without causing abscission.

Sec. 9. As used in this chapter, "desiccant" means any:

(1) substance; or

(2) mixture of substances;

intended for artificially accelerating the drying of plant tissues.

Sec. 10. As used in this chapter, "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating any pest. The term does not include:

(1) equipment used for the application of pesticides when sold separately from the pesticides;

(2) firearms; or

(3) simple mechanical devices, including barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

Sec. 11. As used in this chapter, "distribute" means to:

(1) offer for sale;

(2) sell;

(3) exchange;

(4) barter; or

(5) supply or offer to supply;

a pesticide product.

Sec. 12. As used in this chapter, "final printed labeling" means the printed label or other labeling that will appear on or accompany a pesticide product.

Sec. 13. As used in this chapter, "front panel" means the part of a label that is visible to a purchaser under normal conditions of sales displays.

Sec. 14. As used in this chapter, "fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts), including:

(1) rusts;

(2) smuts;

(3) mildews;

(4) molds;

(5) yeasts;

(6) bacteria; and

(7) viruses;

except those on or in a living human or other animal.

Sec. 15. As used in this chapter, "fungicide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

any fungi.

Sec. 16. As used in this chapter, "herbicide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

any weed.

Sec. 17. As used in this chapter, "highly volatile herbicide" means a herbicide that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area of application of the herbicide to areas inhabited by the desired plants.

Sec. 18. As used in this chapter, "immediate container" means the part of a container that is in direct contact with a pesticide product.

Sec. 19. As used in this chapter, "inert ingredient" means an ingredient that is not an active ingredient.

Sec. 20. As used in this chapter, "ingredient statement" means any of the following:

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

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

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

Sec. 21. As used in this chapter, "insect" means any small invertebrate animal:

(1) generally having the body more or less obviously segmented;

(2) for the most part belonging to the class Insecta; and

(3) comprising:

(A) six (6) legged usually winged forms, including beetles, bugs, bees, flies; or

(B) other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

Sec. 22. As used in this chapter, "insecticide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

any insects.

Sec. 23. As used in this chapter, "label" means:

(1) the:

(A) written;

(B) printed, or

(C) graphic;

matter on, or attached to, a pesticide product or the immediate container of the pesticide product; and

(2) any outside container or wrapper of the retail package of the pesticide product.

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

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

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

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

(A) the United States Department of Agriculture;

(B) the United States Department of Interior;

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

(D) state experiment stations;

(E) state agricultural colleges; or

(F) other similar federal institutions or official agencies of Indiana or other states authorized by law to conduct

research in the field of pesticides.

Sec. 25. As used in this chapter, "misbranded" refers to any of the following:

(1) Any pesticide product if its labeling bears any:

(A) statement;

(B) design; or

(C) graphic representation;

relative to the pesticide product or to its ingredients that is false or misleading.

(2) Any pesticide product if any of the following apply:

(A) It is an imitation of or is offered for sale under the name of another pesticide product.

(B) Its labeling bears any reference to registration under this chapter.

(C) The labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public.

(D) The label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to humans and other vertebrate animals.

(E) The label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container or the outside container or wrapper of the retail package makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, outside container or wrapping, or labeling, as permitted by the state chemist.

(F) Any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to appear on the

labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms that make it likely to be read and understood by the average individual under customary conditions of purchase and use.

(G) In the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to humans or other vertebrate animals, vegetation, except weeds to which it is applied, or the individual applying the pesticide.

(H) In the case of a plant regulator, defoliant, or desiccant when used as directed, it is injurious to humans or other vertebrate animals, vegetation to which it is applied, or the individual applying the pesticide. However, physical or physiological effects on plants or parts of plants are not considered to be injurious, if that is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(I) The immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

Sec. 26. As used in this chapter, "nematocide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

nematodes.

Sec. 27. As used in this chapter, "nematode", commonly known as a nema or an eelworm, means an invertebrate animal of the phylum nemathelminthes and class Nematoda that is an unsegmented roundworm:

(1) with an elongated, fusiform, or saclike body covered with cuticle; and

(2) that inhabits soil, water, plants, or plant parts.

Sec. 28. As used in this chapter, "person" means any:

(1) individual;

(2) partnership;
(3) association;
(4) fiduciary;
(5) corporation; or
(6) organized group of persons;
whether incorporated or not.

Sec. 29. As used in this chapter, "pest" has the meaning set forth in IC 15-16-5-24.

Sec. 30. As used in this chapter, "pesticide" means:
(1) any substance or mixture of substances intended for:
(A) preventing;
(B) destroying;
(C) repelling; or
(D) mitigating;
a pest; and
(2) any substance or mixture of substances intended for use as a:
(A) plant regulator;
(B) defoliant; or
(C) desiccant.

Sec. 31. As used in this chapter, "pesticide for use by prescription only" means any pesticide that the board has found to be more hazardous than a restricted use pesticide so that any specific use and application must be determined and prescribed by a qualified pest management specialist approved by the state chemist.

Sec. 32. As used in this chapter, "pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

Sec. 33. As used in this chapter, "pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

Sec. 34. As used in this chapter, "plant regulator" means any substance or mixture of substances, intended through physiological action, for:
(1) accelerating or retarding the rate of growth or rate of maturation; or
(2) altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants.

The term does not include substances to the extent they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

Sec. 35. As used in this chapter, "produce" means to:

(1) manufacture;

(2) prepare;

(3) compound;

(4) process, or

(5) change;

the container of a pesticide product or an active ingredient. The term does not include the dilution of formulated pesticides by an individual for the individual's use done according to the directions on the pesticide label.

Sec. 36. As used in this chapter, "registrant" means a person who registers a pesticide product under this chapter.

Sec. 37. As used in this chapter, "restricted use pesticide" means:

(1) any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency; or

(2) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests it is intended to prevent, destroy, control, or mitigate.

Sec. 38. As used in this chapter, "rodenticide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

rodents or any other vertebrate animal that the board declares to be a pest.

Sec. 39. As used in this chapter, "terrestrial ecologist" means a scientist with a degree in, extensive training in, or experience in at least one (1) of the following:

(1) Animal ecology.

(2) Plant ecology.

(3) Vertebrate natural history.

(4) Herpetology.

(5) Ornithology.

(6) Mammalogy.

(7) Field zoology.

Sec. 40. As used in this chapter, "weed" means any plant that grows where the plant is not wanted.

Sec. 41. As used in this chapter, "wildlife" has the meaning set forth in IC 15-16-5-38.

Sec. 42. (a) The Indiana pesticide review board is established. The board consists of the following members:

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

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

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

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

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

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

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

(8) Two (2) ecologists with earned doctorate degrees:

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

(B) one (1) an aquatic ecologist.

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

(9) One (1) public representative.

(10) One (1) representative of the pesticide industry.

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

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

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

(12) One (1) public representative from conservation organizations.

(13) Three (3) qualified scientists, one (1) each in the fields of

entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

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

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

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

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

(b) The voting members shall be appointed by the governor for terms of four (4) years. Appointments shall be made so that not more than five (5) terms expire annually.

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

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

Sec. 43. A vacancy on the board created by death, resignation, or removal for cause of a member shall be filled by the governor not later than thirty (30) days after the occurrence. The new member serves for the remainder of the vacated term and must meet the qualifications to be appointed to the board.

Sec. 44. The board shall elect a member to serve as chairperson for a term of two (2) years. However, if the chairperson's appointment ends before the expiration of the term, the term is for the duration of the chairperson's appointment.

Sec. 45. (a) The board shall meet at least annually.

(b) The board may meet at other times and at a location specified by the chairperson or a majority of the board.

Sec. 46. (a) Ten (10) members of the board constitute a quorum.

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

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

Sec. 47. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem

payments at rates and under conditions incident to these positions:

(1) State officials.

(2) Staff members of state offices.

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

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures, established by the Indiana department of administration and approved by the budget agency.

Sec. 48. The board shall:

(1) collect;

(2) analyze; and

(3) interpret;

information on matters relating to the use of pesticides.

Sec. 49. (a) The board may, after notice and public hearing as provided in IC 4-22-2, declare as a pest any form of:

(1) plant;

(2) animal life; or

(3) virus;

that is injurious to plants, humans, domestic animals, articles, or substances.

(b) When a hearing is held by the board, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing.

Sec. 50. (a) The board may adopt rules under IC 4-22-2 to do the following:

(1) Establish a list of restricted use pesticides and pesticides for use by prescription only for all of Indiana or designated areas within Indiana, if the board finds that the characteristics of a pesticide require that rules restricting the:

(A) sale;

(B) distribution; or

(C) use;

of the pesticide by any person are necessary to prevent undue hazards to persons, animals, wildlife, lands, or waters, other than the pests that they are intended to prevent, destroy, control, or mitigate.

(2) Provide for the:

(A) safe handling;
(B) transportation;
(C) storage;
(D) display;
(E) distribution; and
(F) disposal;
of pesticides and pesticide containers.
(3) Restrict or prohibit the use of certain types of containers or packages for specific pesticides. The restrictions may apply to the:
(A) type of construction;
(B) strength; or
(C) size;
to alleviate danger of spillage, breakage, or misuse.
(b) The board may adopt by reference the restricted use classification of a pesticide that is maintained by the United States Environmental Protection Agency.
(c) The board may do the following:
(1) Include in a rule adopted under subsection (a)(1) the time and conditions of the:
(A) sale;
(B) distribution, or
(C) use;
of pesticides designated as restricted use pesticides and pesticides for use by prescription only.
(2) Require in a rule under subsection (a)(1) that any or all materials be purchased, possessed, or used only under:
(A) permit;
(B) certificate;
(C) license; or
(D) registration;
of the state chemist or under certain conditions or in certain quantities or concentrations.
(d) The state chemist may require all persons issued:
(1) permits;
(2) certificates;
(3) licenses, or
(4) registrations;
under subsection (c) to maintain records as to the use of the

restricted use pesticides and pesticides for use by prescription only.

Sec. 51. The state chemist shall administer this chapter.

Sec. 52. The state chemist may adopt rules under IC 4-22-2 to administer this chapter, including rules providing for the following:

(1) The collection and examination of samples of pesticide products.

(2) Determining whether a pesticide product is highly toxic to humans or wildlife.

(3) The issuance of permits to purchase, possess, or use "restricted use pesticides" and "pesticides for use by prescription only".

(4) Determining standards of coloring or discoloring for pesticide products and to subject pesticide products to the requirements of section 57 of this chapter.

Sec. 53. An agent of the state chemist has the same authority that is vested in the state chemist by this chapter.

Sec. 54. The state chemist may cooperate with and enter into agreements with:

(1) any other agency of this state;

(2) any federal agency; and

(3) any other state or agency of another state;

to carry out this chapter and apply uniform rules.

Sec. 55. The state chemist or the state chemist's agent may do the following:

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

(A) to:

(i) have access to; and

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

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

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

(A) private; or

(B) public;

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

Sec. 56. For more than one (1) pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same:

(1) product name;

(2) registrant name;

(3) United States Environmental Protection Agency registration number; and

(4) labeling.

Sec. 57. Except as provided in section 58 of this chapter, a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any of the following:

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

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

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

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

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

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

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

(5) The pesticides commonly known as:

(A) standard lead arsenate;

(B) basic lead arsenate;

(C) calcium arsenate;

(D) magnesium arsenate;

(E) zinc arsenate;

(F) zinc arsenite;

(G) sodium fluoride;

(H) sodium fluosilicate; and

(I) barium fluosilicate;

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

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

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

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

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

subdivision (4).

Sec. 58. Section 57 of this chapter does not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide product in Indiana if the carrier, upon request, permits the state chemist or the state chemist's designated agent to copy all records showing the transactions in and movement of the pesticide products; or

(2) public officials of Indiana and the federal government engaged in the performance of their official duties.

Sec. 59. A person may not:

(1) detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or rules adopted under this chapter;

(2) add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter;

(3) use for the person's own advantage or reveal, other than to:

(A) the state chemist;

(B) proper officials;

(C) employees of the state;

(D) the courts of this state in response to a subpoena;

(E) physicians; or

(F) pharmacists and other qualified persons for use in emergencies in the preparation of antidotes;

any information relative to formulas of products acquired by authority of section 61 or 64 of this chapter;

(4) use or cause to be used any pesticide contrary to section 50 of this chapter; or

(5) use a highly volatile herbicide except on written permission by the state chemist.

Sec. 60. Section 59(4) of this chapter does not apply to pesticides used in research by:

(1) the United States Department of Agriculture;

(2) the United States Department of Interior;

(3) the Purdue University agricultural research programs; or

(4) other persons who are qualified researchers as approved by the board.

Sec. 61. (a) Each pesticide product that is:

(1) produced, distributed, sold, displayed, or offered for sale within Indiana; or

(2) delivered for transportation or transported:

(A) in intrastate commerce; or

(B) between points within Indiana through any point outside Indiana;

must be registered in the office of the state chemist.

(b) The application for registration must be made on a form provided by the state chemist that includes the following information:

(1) The name and address of the:

(A) applicant; and

(B) person whose name will appear on the label, if a person other than the applicant.

(2) The complete brand name of the pesticide.

(3) A complete copy of the labeling accompanying the pesticide.

(4) A statement of all claims to be made for it, including directions for use.

(5) If requested by the state chemist, a full description of the tests made and the results of the tests upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.

Sec. 62. (a) Each registrant shall pay an annual, nonrefundable fee of one hundred seventy dollars ($170) for each application for each pesticide product registered.

(b) Each registration expires January 1 of each year.

(c) All fees collected by the state chemist under this chapter shall be paid to the treasurer of Purdue University, who shall deposit the fees in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

(d) From the account described in subsection (c), the treasurer shall pay all expenses incurred in administering this chapter, including expenses for the following:

(1) The employment of:

(A) inspectors;

(B) investigators;

(C) researchers;

(D) analysts;

(E) administrators; and

(F) clerical and service staff.

(2) Expenses in procuring samples and printing results of inspections.

(3) Purchasing:

(A) supplies;

(B) equipment; and

(C) services.

(4) Necessary remodeling.

(5) Other expenses of the office of the state chemist.

(6) The transfer of ten dollars ($10) from each fee paid under subsection (a) on an annual basis to the office of Purdue pesticide programs to provide education about the safe and effective use of pesticides.

The treasurer is not required to use any other funds, except those collected as registration fees, to pay any expenses incurred in the administration of this chapter. The dean of agriculture shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

(e) A registrant who registers or pays an annual fee after December 31 of any year shall pay a late fee of one hundred seventy dollars ($170) as well as the annual fee.

(f) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

Sec. 63. The registration fee provisions of section 62 of this chapter apply to commercial fertilizers containing pesticides.

Sec. 64. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the:

(1) confidential statement of formula;

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

(3) analytical standards of the pesticide product.

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

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

(1) the state chemist determines that the composition of the

pesticide product warrants the proposed claims for it; and

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

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

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

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

does not comply with this chapter.

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

(e) The state chemist, in accordance with the procedures specified in this section, may suspend or cancel the registration of a pesticide whenever the state chemist determines that the pesticide product or its labeling does not comply with this chapter.

(f) If:

(1) an application for registration is refused; or

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

notice of the action must be given to the applicant or registrant, who shall have fifteen (15) days from the date of the notice to request a hearing on the proposed action in accordance with IC 4-21.5.

Sec. 65. The state chemist may, by rule, declare that information required under this chapter is confidential.

Sec. 66. A person may not distribute:

(1) an unregistered pesticide product;

(2) an adulterated pesticide product; or

(3) a misbranded pesticide product.

Sec. 67. A person may not handle, transport, store, display, or distribute pesticide products in a manner as to endanger:

(1) humans;

(2) the environment;

(3) food;

(4) feed; or

(5) any other products that may be:

(A) transported;

(B) stored;

(C) displayed; or

(D) distributed;

with pesticide products.

Sec. 68. A person may not dispose of, discard, or store any pesticide products or pesticide containers in a manner that may cause injury to:

(1) humans;

(2) plants;

(3) animals;

(4) wildlife;

(5) lands; or

(6) waters;

except the pests that pesticide products are intended to prevent, destroy, control, or mitigate.

Sec. 69. (a) Subject to this section, if a person violates this chapter or a rule adopted under this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the person or:

(1) deny;

(2) suspend;

(3) revoke; or

(4) amend;

the person's registration under this chapter.

(b) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board. The board shall establish a schedule of the civil penalties that may be imposed under subsection (a) by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

(1) Two hundred fifty dollars ($250) for a person's first violation.

(2) Five hundred dollars ($500) for a person's second violation.

(3) One thousand dollars ($1,000) for a person's third violation and each subsequent violation.

(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) A proceeding under IC 4-21.5-3 that involves the imposition of a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(e) Money collected for civil penalties imposed under this section shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides.

Sec. 70. (a) The examination of pesticide products shall be made under the direction of the state chemist to determine whether the pesticide products comply with this chapter.

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

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

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

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

Sec. 71. (a) The state chemist may apply for a:

(1) temporary; or

(2) permanent;

injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under the chapter notwithstanding the existence of other remedies at law.

(b) A court may grant a:

(1) temporary; or

(2) permanent;

injunction that the state chemist applies for under subsection (a).

(c) An injunction granted under this section shall be issued without bond.

Sec. 72. The state chemist shall publish, in a form the state chemist considers proper, notice of all the judgments entered in actions instituted under the authority of this chapter.

Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

(1) finds any pesticide product:

(A) upon any premises; or

(B) in any means of conveyance;

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

(2) determines that the pesticide product:

(A) is in violation of this chapter; or

(B) has been or is intended to be:

(i) distributed; or

(ii) sold;

in violation of this chapter;

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

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

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

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

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

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

(1) sell;

(2) use; or

(3) remove;

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

order of a court.

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

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

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

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

Sec. 74. (a) The state chemist may file a claim in accordance with subsection (b) to condemn any pesticide product that is:

(1) distributed, sold, or offered for sale in Indiana; or

(2) delivered for transportation or transported:

(A) in intrastate commerce; or

(B) between points;

within Indiana through any point outside Indiana;

in any court with jurisdiction in any county of the state where the product is found and seized.

(b) A claim may be filed under subsection (a) if:

(1) the pesticide product is adulterated or misbranded;

(2) the pesticide product has not been registered under section 61 or 62 of this chapter;

(3) the pesticide product fails to bear on its label the information required by this chapter;

(4) the pesticide product is a white powder pesticide product and is not colored as required under this chapter; or

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

Sec. 75. (a) If a pesticide product is condemned under this chapter, the court shall enter a decree ordering the:

(1) disposal;

(2) destruction; or

(3) sale;

as the court may direct.

(b) If the pesticide product is sold under subsection (a), the proceeds, less legal costs, shall be paid to the state chemist.

(c) A pesticide product described in subsection (a) may not be sold except as provided for in this chapter.

(d) After:

(1) payment of costs; and

(2) execution and delivery of a good and sufficient bond that stipulates that the pesticide product may not be disposed of unlawfully;

the court may direct that the pesticide product be delivered to the owner of the pesticide product for relabeling or reprocessing.

Sec. 76. Whenever a decree of condemnation is entered under section 75(a) of this chapter against a pesticide product:

(1) court costs;

(2) fees;

(3) storage costs; and

(4) other proper expenses;

shall be awarded against the person, if any, intervening as claimant of the pesticide product.

Sec. 77. A person who recklessly, knowingly, or intentionally:

(1) violates this chapter; or

(2) impedes or prevents the state chemist or the state chemist's authorized agent in performance of the state chemist's duty in connection with this chapter;

commits a Class C misdemeanor, except as provided in section 78 of this chapter.

Sec. 78. A person who, with intent to defraud:

(1) uses; or

(2) reveals;

information relative to formulas of products acquired under authority of section 64 of this chapter commits a Class A misdemeanor.

Chapter 5. Pesticide Use and Application

Sec. 1. As used in this chapter, "agricultural commodity" means any plant or part of a plant and animals or animal products produced primarily for sale, consumption, propagation, or other use by humans or animals.

Sec. 2. As used in this chapter, "animal" means all vertebrate and invertebrate species, including humans and other mammals, birds, fish, and shellfish.

Sec. 3. As used in this chapter, "beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are useful to

humans.

Sec. 4. As used in this chapter, "board" means the Indiana pesticide review board established by IC 15-16-4-42.

Sec. 5. As used in this chapter, "certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 58 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

Sec. 6. As used in this chapter, "certified applicator" means any individual who is certified under this chapter as qualified to use or supervise the use of pesticides and has been issued a license or permit as evidence of the individual's qualifications.

Sec. 7. As used in this chapter, "commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides for any purpose or on any property other than as provided by section 30 of this chapter.

Sec. 8. As used in this chapter, "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

Sec. 9. As used in this chapter, "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

Sec. 10. As used in this chapter, "device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than bacteria, viruses, or other microorganisms on or in living humans or other living animals. The term does not include equipment used for the application of pesticides when sold separately from the pesticides.

Sec. 11. As used in this chapter, "distribute" means to offer for sale, sell, exchange, or barter, or supply or offer to supply a pesticide.

Sec. 12. As used in this chapter, "environment" includes water, air, land, and all plants and humans and other animals living in water, air, or on land and the interrelationships that exist among

these.

Sec. 13. As used in this chapter, "equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized, mechanical, or pressurized power to apply any pesticide.

Sec. 14. As used in this chapter, "fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including:

(1) rust;

(2) smut;

(3) mildew;

(4) mold;

(5) yeast; and

(6) bacteria;

except those on or in living humans or other animals, and those on or in processed food, beverages, or pharmaceuticals.

Sec. 15. As used in this chapter, "insect" means any small invertebrate animal:

(1) generally having the body more or less obviously segmented;

(2) for the most part belonging to the class Insecta; and

(3) comprising:

(A) six (6) legged usually winged forms, including beetles, bugs, bees, flies; or

(B) other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

Sec. 16. As used in this chapter, "licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to use or to supervise the use of any pesticide on the property of another and who has assumed direct responsibility for the use or supervision of the use of pesticides by the business.

Sec. 17. As used in this chapter, "licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

Sec. 18. As used in this chapter, "licensed pest inspector" means

an individual licensed under this chapter to make diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another person and meets the requirements under section 58 of this chapter.

Sec. 19. As used in this chapter, "licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

(1) using any pesticide, including restricted use pesticides; or

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

Sec. 20. As used in this chapter, "licensed public applicator" means a licensed certified commercial applicator who uses or supervises the use of a restricted use pesticide as an employee of a state agency, municipal corporation, or other governmental agency. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

Sec. 21. As used in this chapter, "nematode", commonly known as a nema or an eelworm, means an invertebrate animal of the phylum nemathelminthes and class nematoda that is an unsegmented roundworm:

(1) with an elongated, fusiform, or saclike body covered with cuticle; and

(2) that inhabits soil, water, plants, or plant parts.

Sec. 22. As used in this chapter, "permit" means a written certificate issued by the state chemist or the state chemist's agent to a private applicator, authorizing the purchase, possession, or use of restricted use pesticides.

Sec. 23. As used in this chapter, "person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

Sec. 24. As used in this chapter, "pest" means:

(1) any insect, rodent, nematode, fungus, or weed; or

(2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living humans or other living animals) that is declared to be a pest by the administrator of the United States Environmental Protection Agency or by the board.

Sec. 25. As used in this chapter, "pesticide" means:

(1) any substance or mixture of substances intended for:

(A) preventing;

(B) destroying;

(C) repelling; or

(D) mitigating;

a pest; or

(2) any substance or mixture of substances intended for use as a:

(A) plant regulator;

(B) defoliant; or

(C) desiccant.

Sec. 26. As used in this chapter, "pesticide consultant" means a person engaged in the retail sale of pesticides who:

(1) offers or supplies technical advice to;

(2) aids; or

(3) makes recommendations to;

another person concerning the use of a pesticide as part of business.

Sec. 27. As used in this chapter, "pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

Sec. 28. As used in this chapter, "pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

Sec. 29. As used in this chapter, "plant regulator" means any substance or mixture of substances intended, through physiological action, for:

(1) accelerating or retarding the rate of growth or rate of maturation; or

(2) altering the behavior of plants or the produce of plants.

The term does not include substances to the extent they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

Sec. 30. As used in this chapter, "private applicator" means a certified applicator who uses or supervises the use of pesticides for purposes of producing any agricultural commodity on property owned, rented, or managed by the employer or the applicator, if applied without compensation on the property of another person.

Sec. 31. As used in this chapter, "property" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

Sec. 32. As used in this chapter, "registered pesticide dealer" means any person who distributes any restricted use pesticide.

Sec. 33. As used in this chapter, "registered technician" means a person who:

(1) is not licensed under this chapter;

(2) has registered with the state chemist; and

(3) is authorized to engage in pesticide use and related activities under the direct supervision of a licensed and certified applicator.

Sec. 34. As used in this chapter, "restricted use pesticide" means:

(1) any pesticide classified as restricted by the administrator of the United States Environmental Protection Agency; or

(2) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests the pesticide is intended to prevent, destroy, control, or mitigate.

Sec. 35. As used in this chapter, "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Sec. 36. As used in this chapter, "use" means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:

(1) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.

(2) Storage of pesticides and pesticide containers by the intended applicator of the pesticides.

(3) Transportation of pesticides and pesticide containers by the intended applicator of the pesticides.

(4) Disposal of pesticides and pesticide containers by the intended applicator of the pesticides.

Sec. 37. As used in this chapter, "weed" means any plant that grows where the plant is not wanted.

Sec. 38. As used in this chapter, "wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

Sec. 39. This chapter shall be administered by the state chemist.

Sec. 40. The state chemist may delegate to an employee or agent any function that is vested in the state chemist by this chapter.

Sec. 41. The state chemist may adopt rules to declare that information required to be submitted under this chapter is confidential.

Sec. 42. The state chemist may waive all or part of the requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, 53, 54, and 57 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

Sec. 43. In concurrence with the state chemist, the Purdue University cooperative extension service shall organize and conduct programs of instruction and training in areas of knowledge required in this chapter. Where appropriate and feasible, the Purdue University cooperative extension service shall draw upon the resources and expertise of other educational institutions and the private sector in this effort.

Sec. 44. (a) The board may adopt rules under IC 4-22-2 prescribing policies and procedures relating to:

(1) the use and application of pesticides; and

(2) diagnostic inspections and reports for wood destroying pests.

(b) For the purpose of uniformity and in order to enter into both cooperative and reciprocal agreements, the board may adopt restricted use pesticide classifications as determined by the United States Environmental Protection Agency. The state chemist may adopt additional rules under IC 4-22-2 as required to accomplish the purpose of this chapter.

(c) Rules adopted under this chapter may not permit any pesticide use that is prohibited by federal law and regulations or orders issued under federal law.

Sec. 45. (a) The state chemist shall adopt rules to establish categories and qualifications to certify and license persons to use pesticides and to make diagnostic inspections and reports for wood destroying pests under this chapter. Each category is subject to separate testing procedures and requirements. A person is not

required to pay an additional license fee if the person desires to be licensed in more than one (1) of the license categories provided for by the state chemist under this section.

(b) The state chemist, in adopting rules under this section, shall establish standards for the certification of persons who use pesticides or who make diagnostic inspections and reports for wood destroying pests. The standards must relate to the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by the individual's certification and must be relative to the hazards involved. In determining standards, the state chemist shall consider the characteristics of the pesticide formulation, including the acute dermal and inhalation toxicity, the persistence, mobility, and susceptibility to biological concentration, the use experience that may reflect an inherent misuse or an unexpected good safety record that does not always follow laboratory toxicological information, the relative hazards of patterns of use, including granular soil applications, ultra-low volume or dust aerial applications, or air blast sprayer applications, and the extent of the intended use. The state chemist shall observe the relevant regulations of Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.).

(c) The state chemist may require a person certified under this chapter as a commercial applicator or a private applicator to renew the person's certification, under requirements and standards established by the state chemist, to assure that the person maintains a level of competence and ability to use pesticides safely and properly.

Sec. 46. A person required to be certified or registered under this chapter may not:

(1) use or supervise the use of any pesticide; or

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

unless the person complies with the certification or registration requirements under this chapter and any other requirements determined by the state chemist to be necessary to prevent unreasonable adverse effects on the environment.

Sec. 47. (a) A license issued under this chapter is not transferable except in the event of disability or death of the licensee. The state chemist may transfer a license by issuing a

temporary permit to provide for the operation of the business until the expiration of the permanent license.

(b) A certificate issued under this chapter is not transferable.

Sec. 48. (a) Subject to section 55 of this chapter, a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

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

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars ($45) for each pesticide business license that is issued.

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

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

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

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

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

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

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

(f) Subject to section 65 of this chapter, if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides on the property of another;

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

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

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

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

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

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

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

Sec. 49. A person may not:

(1) act as an employee of a licensed pesticide business and use or supervise the use of a pesticide on another person's property; or

(2) make diagnostic inspections or reports to determine infestations of wood destroying pests on another person's property;

without having obtained a license to act as a licensed applicator for hire or a licensed pest inspector from the state chemist. However, a competent person who is not a licensed applicator for hire may use a pesticide under the direct supervision of a licensed applicator. An applicator's license and a pest inspector's license does not relieve the person from the responsibility of obtaining any other license or permit required for the operation or use of any equipment.

Sec. 50. (a) Except as provided in subsection (b), a person may not act as a licensed applicator not for hire unless the person has obtained a license from the state chemist.

(b) A person who is not a licensed applicator not for hire may use a pesticide if the person is under the direct supervision of a licensed applicator not for hire.

Sec. 51. (a) All state agencies, municipal corporations, and other

governmental agencies are subject to this chapter and rules adopted under this chapter concerning the application of pesticides.

(b) Except as provided in subsection (c), a person may not act as a licensed public applicator unless the person has obtained a license from the state chemist.

(c) A person who is not a licensed public applicator may use a pesticide if the person is under the direct supervision of a licensed public applicator.

(d) The public applicator's license is valid only when the applicator is using or supervising the use of pesticides by public agencies. Government research personnel are not exempt from the licensing requirement when using pesticides.

Sec. 52. (a) A person applying for a license described under section 49, 50, or 51 of this chapter must:

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

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

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

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

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

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

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

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

(2) may apply to the state chemist to transfer or amend the

person's license by submitting an updated application form described under subsection (a)(1).

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

(1) expires January 1 of each year; and

(2) may be renewed by the person holding the license if the person:

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

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

before January 1.

Sec. 53. (a) A person may not act as a pesticide consultant unless the person has registered with the state chemist.

(b) To register with the state chemist as a pesticide consultant, a person must:

(1) submit an application on a form approved by the state chemist; and

(2) pay an annual fee of forty-five dollars ($45) to the state chemist.

Sec. 54. (a) A private applicator may not be issued a permit to use a restricted use pesticide without first complying with the certification requirements, including passing an examination, determined by the state chemist necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

(b) Certification standards to determine a person's competency with respect to the use and handling of the pesticide or class of pesticides that the private applicator is to be certified to use must be relative to hazards as described in section 45 of this chapter. In determining these standards, the state chemist shall observe those standards for private applicator certification provided by the U.S. Environmental Protection Agency.

(c) A fee of twenty dollars ($20) must be paid to the state chemist by each person applying for a certification as a private applicator under this section.

(d) If the state chemist does not certify the private applicator under this section, the state chemist shall inform the applicant of the reasons the applicant was not certified and return the

applicant's application fee.

(e) The state chemist may require additional knowledge to ensure that applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

Sec. 55. Section 48 of this chapter relating to licenses and requirements for their issuance does not apply to the following:

(1) A farmer who applies pesticides for the farmer's own use or with ground equipment or manually for the farmer's neighbors if:

(A) the farmer operates farm property and operates and maintains pesticide application equipment primarily for the farmer's own use;

(B) the farmer is not engaged in the business of applying pesticides for hire and the farmer does not publicly profess to be a pesticide business;

(C) the farmer operates the farmer's pesticide application equipment only in the vicinity of the farmer's own property and for the accommodation of the farmer's neighbors; and

(D) the farmer is certified as a private applicator if the farmer uses restricted use pesticides.

(2) A veterinarian who uses pesticides as an incidental part of the veterinarian's practice, if the veterinarian is not regularly engaged in or does not profess to be engaged in the business of using pesticides for hire.

(3) Research personnel applying pesticides only to bona fide experimental plots.

Sec. 56. The state chemist shall establish and administer a program to register individuals as registered technicians.

Sec. 57. (a) Each person who is a restricted use pesticide dealer shall register with the state chemist. Registration shall be required for each business location distributing restricted use pesticides and shall be accomplished on a form to be provided by the state chemist. A registration expires January 1 following issuance unless the registration is renewed annually. A registration fee of forty-five dollars ($45) must accompany the application.

(b) This section does not apply to:

(1) a licensed pesticide business that sells pesticides only as an

integral part of its pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application;

(2) any federal, state, county, or municipal agency that provides pesticides only for its own programs; or

(3) any person who is the final purchaser of a pesticide for application to property or property rights owned, leased, or acquired by the person.

(c) Each registered pesticide dealer is responsible for the acts of each person employed by the dealer in the solicitation and sale of restricted use pesticides and all claims and recommendations for use of pesticides. The dealer's registration is subject to sections 65 and 66 of this chapter for any violation of this chapter whether committed by the dealer or by the dealer's officer, agent, or employee.

Sec. 58. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is in compliance and the applicant's license is reinstated by the state chemist.

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

Sec. 59. (a) Commercial applicators and licensed pest inspectors shall maintain records concerning:

(1) the application of restricted use pesticides;

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

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

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

(c) Records required under this section must be kept for two (2) years after the date of the application of the pesticide, and the state chemist shall be provided access to the records by the commercial applicator.

Sec. 60. A person who:

(1) is required to pay a fee under this chapter to the state chemist; and

(2) does not pay the fee before the date the fee is due;

shall pay a penalty fee to the state chemist equal to one hundred percent (100%) of the required fee when the person pays the required fee.

Sec. 61. (a) All fees collected by the state chemist under this chapter shall be paid to Purdue University and deposited in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

(b) From the account described in subsection (a), the treasurer shall pay from the special restricted account the expenses incurred in administering this chapter, including expenses for the following:

(1) The employment of:

(A) inspectors;

(B) investigators;

(C) researchers;

(D) analysts;

(E) administrators; and

(F) clerical and service staff.

(2) Conducting and reporting inspections and investigations.

(3) Purchasing supplies and services.

(4) Providing necessary facilities and remodeling.

(5) Any other expense of the office of the state chemist.

The treasurer is not required to use any other funds, except those collected under this chapter, to defray any expenses incurred in the administration of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

Sec. 62. The state chemist may adopt rules to require the

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

Sec. 63. The state chemist may cooperate with, and enter into agreements with, any other agency of the state, any federal agency, or any other state agency or nongovernmental organization to carry out this chapter to:

(1) secure uniformity of rules;

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

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

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

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

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

(7) regulate certified applicators; and

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

Sec. 64. (a) A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner as to:

(1) cause injury to:

(A) humans;

(B) beneficial vegetation;

(C) crops;

(D) livestock;

(E) wildlife; or

(F) beneficial insects; or

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

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

Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

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

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

(3) Used known ineffective or improper pesticides.

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist.

(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports and supply information when required.

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

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

(A) using a pesticide; or

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

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

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

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

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

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

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

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

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

(17) Failed to continuously maintain financial responsibility required under section 58 of this chapter.

Sec. 66. (a) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board.

(b) The board shall establish a schedule of civil penalties that may be imposed under section 65 of this chapter by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

(1) For a violation committed by a person who is required to be certified as a private applicator, one hundred dollars ($100).

(2) For a violation by a person who is not described in subdivision (1), the following:

(A) Two hundred fifty dollars ($250) for a person's first violation.

(B) Five hundred dollars ($500) for a person's second violation.

(C) One thousand dollars ($1,000) for a person's third violation and each subsequent violation.

(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) A proceeding under IC 4-21.5-3 that involves a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(e) Money collected for civil penalties imposed under section 65 of this chapter shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides.

Sec. 67. (a) A person who is:

(1) regulated under section 65, 66, or 70 of this chapter; and

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

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

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

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

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

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

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

Sec. 68. The state chemist may request a court to issue subpoenas to compel:

(1) the attendance of witnesses; or

(2) the production of books, documents, and records;

as part of an authorized investigation or a hearing located in Indiana affecting the authority or privilege granted by a license,

certificate, registration, or permit issued under this chapter.

Sec. 69. (a) The state chemist may enter upon any public or private property at reasonable times to do the following:

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

(2) Inspect equipment subject to this chapter.

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

(4) Inspect storage or disposal areas.

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

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

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

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

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

Sec. 70. (a) A person who recklessly, knowingly, or intentionally:

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

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

commits a Class C misdemeanor.

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

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or a rule under this chapter.

A court may not allow the recovery of damages for an administrative action taken under this subsection if the court finds that there was probable cause for the action.

Sec. 71. (a) A political subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the use or application of pesticides.

(b) A political subdivision may, by resolution, petition the board for a hearing to allow a variance from a rule of the board because of special circumstances relating to the use or application of a pesticide. If a petition is received, the board shall hold a public hearing to consider allowing the variance requested. The public hearing shall be conducted in an informal manner. IC 4-21.5 does not apply to the public hearing under this section.

(c) The board may grant a variance requested under this section with or without changes.

Chapter 6. Organization of Horticultural and Quarantine Districts

Sec. 1. (a) Horticultural and quarantine districts may be organized under this chapter for any or all of the following purposes:

(1) To prevent the spread of contagious diseases among fruit, fruit trees, and fruit bearing plants.

(2) To provide for the prevention, treatment, cure, and extirpation of:

(A) fruit pests; and

(B) diseases of fruit, fruit trees, and fruit bearing plants.

(3) To:

(A) provide for the purchase and maintenance of spraying machines, wagons, or other necessary apparatus to adequately spray fruit trees or other fruit bearing plants;

(B) hire workers and teams to perform the required labor; and

(C) incur the necessary expense to carry out the purposes of this chapter.

(4) To hire experts to:

(A) inspect fruit trees and fruit bearing plants found within a horticultural and quarantine district; and

(B) prescribe the proper methods of treatment of diseases of fruit trees or fruit bearing plants.

(b) A horticultural and quarantine district shall be administered by a voluntary association that has three (3) elected directors.

Sec. 2. (a) At least ten (10) persons who are owners of land:

(1) constituting a contiguous area; and

(2) upon which are situated orchards, fruit trees, or other fruit bearing plants;

may establish a horticultural and quarantine district.

(b) The articles of association must be in writing and signed and acknowledged by each person who desires to become a member of the organization. The articles of association must specify the following:

(1) The corporate name of the association.

(2) The objectives of the association, generally.

(3) The name and residence of each incorporating member.

(4) The term of existence of the association. However, the term may not exceed ten (10) years.

(5) That three (3) directors shall manage the affairs of the association.

(c) An association may not have capital stock. The articles of association may be amended at any time by supplementary and amended articles:

(1) signed and acknowledged by a majority of the members of the association at the time of amendment; and

(2) recorded in the same manner as the original articles.

Sec. 3. (a) At least three (3) members of the association may give notice of an election of the board of directors of the association.

(b) The notice must contain the following information:

(1) The date and time of the election.

(2) The place where the election will be held. The election must be held at a place:

(A) convenient to voters; and

(B) located within or near the proposed horticultural and quarantine district.

(c) The notice must be:

(1) published in one (1) newspaper:

(A) in the county; and

(B) of general circulation among the members of the association; or

(2) delivered in person.

Sec. 4. (a) If a majority of the members of the association are present at the time and place specified in the notice described in section 3 of this chapter, the members shall elect, by ballot, three (3) directors from among the membership of the association.

(b) The directors shall immediately determine by lot the directors' initial terms of office, which are as follows:

(1) One (1) director shall serve a term of one (1) year.

(2) One (1) director shall serve a term of two (2) years.

(3) One (1) director shall serve a term of three (3) years.

(c) Except as provided in subsection (b), the term of a director is three (3) years. A director shall serve until a successor is elected and qualified.

(d) The directors shall call an annual meeting of the association members to elect a director. The directors shall provide notice of the meeting under section 3 of this chapter. The members shall meet at the time and place fixed by the directors.

Sec. 5. If a vacancy occurs in the office of a director, the remaining directors shall fill the vacancy by appointing a temporary director. The temporary director shall be appointed from among the members of the association and shall hold office until the next annual election.

Sec. 6. (a) Before or after the election of directors, the association shall:

(1) file the articles of association in the office of the secretary of state; and

(2) record in the recorder's office of each county in which any part of the proposed horticultural and quarantine district is situated a duplicate copy of the articles of association.

(b) After the articles of association are filed and recorded, the association is a body politic and corporate, by the name and style adopted. The association has all the rights, powers, and privileges given to corporations to:

(1) sue and be sued, plead and be pleaded, answer and be answered, in any court with jurisdiction;

(2) borrow money and levy assessments upon the owners of lands, orchards, trees, and other fruit bearing plants situated in the district; and

(3) rent, lease, purchase, hold, sell, and convey personal property as is necessary and proper for the purposes and

objectives of the corporation.

(c) A majority of the members of the association may:

(1) adopt bylaws for the government of the horticultural and quarantine district; and

(2) make rules as may be necessary to carry the bylaws into force and effect.

Sec. 7. (a) The boundary of a horticultural and quarantine district shall coincide with a line enclosing the lands owned by the association members.

(b) A person who is the owner of lands contiguous to a horticultural and quarantine district is entitled to become a member of the association at any time by signing the articles of association.

(c) Horticultural and quarantine districts may be increased in size to not more than twenty (20) square miles of territory by annexing contiguous territory under this section.

(d) Contiguous horticultural and quarantine districts may be consolidated if the combined area of the consolidating districts does not exceed twenty (20) square miles. The question of consolidation may be submitted to the members of the respective associations at a joint meeting called for that purpose. If a majority of members entitled to vote under section 8 of this chapter vote in favor of consolidation:

(1) a new district comprised of the consolidating districts is formed; and

(2) the articles of association of the new district shall be filed and recorded as prescribed in section 6 of this chapter.

(e) Directors of the new district may be chosen at the meeting called to determine the question of consolidation or at a subsequent meeting.

Sec. 8. All persons who have:

(1) signed the articles of association; and

(2) paid the assessments levied against them;

are entitled to vote at any meeting of the members of the association on any question that lawfully comes before the association. Each member is entitled to one (1) vote on any question.

Sec. 9. (a) The directors shall elect one (1) director to serve as president and one (1) director to serve as secretary.

(b) The secretary shall also serve as treasurer of the association and have custody of the the association's money. The secretary shall execute a bond, with good freehold surety, for double the amount of money that will probably be received by the secretary at any time during the secretary's term of office.

(c) The secretary shall:

(1) keep a record of the transactions of the association, including:

(A) brief minutes of meetings;

(B) the results of elections; and

(C) an itemized account of all receipts and expenditures; and

(2) present a report of the transactions of the association to the members of the association at the annual meeting.

Sec. 10. Money may be drawn from the treasury of an association only upon the order of a majority of the board of directors. A warrant must be:

(1) signed by the president of the board of directors; and

(2) attested by the treasurer.

Sec. 11. (a) A special meeting of the members of the association may be called at any time by:

(1) a majority of the board of directors; or

(2) five (5) members of the association.

(b) A majority of the members constitute a quorum to transact ordinary business not required by law to be transacted at the regular meeting prescribed by law.

Sec. 12. (a) The board of directors of any association shall administer the affairs of an association under this chapter for any or all the following purposes:

(1) To prevent the spread of contagious diseases among fruit, fruit trees, and fruit bearing plants.

(2) To provide for the prevention, treatment, cure, and extirpation of:

(A) fruit pests; and

(B) diseases of fruit and fruit bearing plants.

(3) To:

(A) provide for the purchase and maintenance of spraying machines, wagons, or other necessary apparatus;

(B) adequately spray fruit trees or other fruit bearing

plants;

(C) hire workers and teams to perform the required labor; and

(D) incur the necessary expense to carry out the purposes of this chapter.

(4) To hire experts to:

(A) inspect fruit trees and fruit bearing plants found within the horticultural and quarantine district; and

(B) prescribe the proper methods of treating a disease of the trees or plants.

(5) To periodically levy assessments on the members as necessary to administer this chapter and the purposes of the association.

(6) To actively cooperate with the state entomologist and the county agents in precautionary measures to prevent the spread of injurious insects and plant diseases within the district.

(7) To advise, direct, and encourage the activities of the association.

(b) If directed by a majority vote of the members at any special or regular meeting, the board of directors of an association may hire experts to:

(1) inspect fruit trees and fruit bearing plants; and

(2) prescribe the proper methods of treating diseases of fruit trees or fruit bearing plants.

Sec. 13. The state entomologist shall:

(1) cooperate with a horticultural or quarantine association in the state in efforts to prevent, locate, check, or eradicate injurious insects or fruit disease; and

(2) periodically or upon request send all available information relating to injurious insects and plant diseases, including methods of detection and treatment, to the board of directors of a horticultural or quarantine association.

Sec. 14. (a) In counties having a county agricultural extension educator, the county agricultural extension educator shall be an ex officio deputy state entomologist for the county and shall:

(1) carry out the instructions of the state entomologist; and

(2) under the direction of the state entomologist, cooperate with a local horticultural association or society in efforts to

prevent, locate, check, or eradicate injurious insects or fruit diseases.

(b) A county agricultural extension educator may not receive additional compensation for performing the duties of the deputy state entomologist.

Sec. 15. To raise money necessary to meet the expenses of horticultural and quarantine associations, the board of directors shall assess the individual members of the association in proportion to the service derived, procured, or obtained by the members from the association. The assessment must be based on the acreage or number of trees, plants, vines, or other herbaceous plants in equitable proportion as the directors consider just.

Chapter 7. Weed Control Board

Sec. 1. As used in this chapter, "authorizing body" means the body that has the power to adopt ordinances under IC 36-1-3-6.

Sec. 2. As used in this chapter, "noxious weed" refers to the following:

(1) Canada thistle (Cirsium arvense).

(2) Johnson grass (Sorghum halepense).

(3) Columbus grass (Sorghum almum).

(4) Bur cucumber (Sicyos angulatus).

(5) Shattercane (Sorghum bicolor (L.) Moench spp. drummondii (Steud.) deWet).

Sec. 3. The authorizing body of any county may establish a weed control board by adopting an ordinance:

(1) on the authorizing body's own initiative; or

(2) after receiving a petition signed by five percent (5%) of the registered voters of the county.

Sec. 4. (a) The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) township trustee of the county.

(2) One (1) soil and water conservation district supervisor.

(3) One (1) representative from the agricultural community of the county.

(4) One (1) representative from the county highway department or an appointee of the county commissioners.

(5) One (1) cooperative extension service agent from the county to serve in a nonvoting advisory capacity.

(b) Each board member shall be appointed for a term of four (4)

years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments.

(c) The board shall elect a chairperson and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to any traveling and other expenses that are necessary in the discharge of the members' duties.

Sec. 5. The weed control board may:

(1) appoint an executive director; and

(2) employ necessary technical, professional, and other assistants.

The board shall fix the qualifications, duties, and salaries of these employees subject to the approval of the county council.

Sec. 6. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall:

(1) serve as inspectors for the weed control board;

(2) make periodic inspections; and

(3) report their findings to the board and the executive director, if any.

Sec. 7. The powers and duties of the weed control board include the following:

(1) Taking all necessary and proper steps to control and contain noxious weeds that have adverse significance on agricultural production in Indiana.

(2) Entering upon any land, public or private, at any reasonable time after giving forty-eight (48) hours notice to the person in possession of the land to inspect for noxious weeds, unless permission is granted to enter earlier.

(3) Purchasing supplies, material, and equipment.

(4) Acquiring by gift or purchase, holding, or disposing of, any real property in the name of the board, to include facilities as offices, laboratories, operational buildings, rights-of-way, and easements.

(5) Making contracts to carry out the duties of the board.

(6) Entering into cooperative agreements with appropriate organizations to assure technical assistance in developing and carrying out the purposes of the board.

(7) Identifying problems determined to be of importance to the public welfare and developing control programs

appropriate to a situation.

(8) Undertaking investigations to determine the extent of infestation of noxious weed species, along with the effect of the infestation on agricultural production in the county.

(9) Employing the latest technological advances to control and contain noxious weeds in the county.

(10) Accepting gifts, grants of money, services, or property for any use consistent with the objectives of the board.

(11) Exercising all other powers necessary to carry out the purposes of this chapter.

(12) Performing additional duties as the authorizing body may prescribe.

Sec. 8. In addition to the weed control board's powers and duties under section 7 of this chapter, the weed control board may establish a marijuana eradication program to eliminate and destroy wild marijuana plants within the county. The program is funded by amounts appropriated by the county:

(1) under IC 33-37-8; and

(2) from the county general fund.

Sec. 9. (a) The weed control board shall require persons who own:

(1) real estate; or

(2) easements, rights-of-way, or other similar interests in real estate;

in the county to control and contain noxious weeds growing on the real estate.

(b) A five (5) day written notice to remove any noxious weeds shall be issued by the board. The notice may be served:

(1) by certified or registered mail addressed to the latest address of the person or to the person's resident agent; or

(2) personally by the sheriff.

(c) The weed control board shall notify the township trustee when the board has sent a notice to a person to remove noxious weeds growing on real estate in the township.

Sec. 10. (a) If a person fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed in section 9 of this chapter, the weed control board may pay the following costs incurred in cutting or destroying noxious weeds under this chapter:

(1) Chemicals.

(2) Equipment.

(3) Labor at a rate per hour to be fixed by the weed control board commensurate with local hourly wages.

(b) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the weed control board. When the bill has been approved, the weed control board shall pay the bill from the county general fund unless the county has established a separate fund for the weed control board. The weed control board shall certify the cost of the work, adding to the bill twenty dollars ($20) per day for each day that a member of the weed control board or the board's agent supervises the performance of the services required under this chapter as compensation for services. The certified statement of costs must include a description of the real estate on which the labor was performed.

(c) The certified statement of costs prepared under subsection (b) must be provided:

(1) to the owner or person possessing the real estate by:

(A) certified mail; or

(B) personal service; and

(2) by mail to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

The statement must request that the person pay the cost of performing the service under subsection (b) to the weed control board.

Sec. 11. (a) If the owner or person in possession of the property does not pay the amount set forth in the statement under section 10(b) of this chapter within ten (10) days after receiving the certified statement under section 10(c) of this chapter, the weed control board shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 12 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds must be deposited in the weed control board fund, if one has been established by the county, for use at the discretion of the weed control board. If a weed control board fund has not been established by the county, the funds collected must be deposited in the county general fund.

Sec. 12. (a) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement under section 10(b) of this chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16). The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the weed control board the amount set forth in the certified statement under section 10(b) of this chapter for real estate owned by the municipality.

(c) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement under section 10(b) of this chapter for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

Sec. 13. Except as provided in section 12 of this chapter, the county auditor, upon receiving and filing the weed control board's certified statement as prescribed in this chapter, shall:

(1) immediately place the amounts on the tax duplicate of the county;

(2) collect the amounts at the next tax paying time, in the same manner as other state, county, or township taxes are collected, including penalties, forfeitures, and sales; and

(3) after the amount has been collected, place the amount in the proper fund.

Sec. 14. The Purdue University cooperative extension service shall provide technical assistance to any weed control board in order to control and contain the growth and spread of noxious weeds.

Sec. 15. Any person who fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed under section 9 of this chapter commits a Class C infraction.

Chapter 8. Destruction of Detrimental Plants

Sec. 1. As used in this chapter, "detrimental plant" includes the following:

(1) Canada thistle (Cirsium arvense).

(2) Johnson grass (Sorghum halrphense).

(3) Columbus grass (Sorghum almum).

(4) Bur cucumber (Sicyos angulatus).

(5) Shattercane (Sorghum bicolor Moench spp. drummondii deWet).

(6) In residential areas only, noxious weeds and rank vegetation.

The term does not include agricultural crops.

Sec. 2. As used in this chapter, "person" means:

(1) an individual;

(2) an incorporated or unincorporated organization or association;

(3) a trustee or legal representative;

(4) the state or an agency of the state;

(5) a political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision; or

(6) any combination of persons listed under subdivisions (1) through (5) acting in concert.

Sec. 3. A person owning or possessing real estate in Indiana shall destroy detrimental plants by:

(1) cutting or mowing and, if necessary, by plowing, cultivating, or smothering; or

(2) using chemicals in the bud stage of growth or earlier, to prevent detrimental plants from maturing on the person's real estate.

Sec. 4. (a) If a township trustee:

(1) has reason to believe that detrimental plants may be on real estate; and

(2) gives the owner or person in possession of the real estate forty-eight (48) hours notice under subsection (e);

the township trustee may enter the real estate to investigate

whether there are detrimental plants on the real estate.

(b) Except as provided in subsection (d), if the township trustee determines by:

(1) investigating real estate located in the trustee's township; or

(2) visual inspection without entering real estate located in the trustee's township;

that a person has detrimental plants growing on real estate, the trustee shall give written notice under subsection (e) to the owner or person in possession of the real estate to destroy the detrimental plants. The owner or person in possession of the real estate shall destroy the plants in a manner provided in section 3 of this chapter not more than five (5) days after the notice is received under subsection (f).

(c) If the detrimental plants are not destroyed as provided in subsection (b), the trustee shall cause the detrimental plants to be destroyed in a manner most practical to the trustee not more than eight (8) days after notice is received by the owner or person in possession of the real estate under subsection (f). The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out the work, except for gross negligence or willful or wanton destruction.

(d) If the county has established a county weed control board under IC 15-16-7, the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(e) Notice required in subsection (a) or (b) may be given by:

(1) certified mail; or

(2) personal service.

(f) Notice under subsection (e) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

Sec. 5. (a) The township trustee may pay the following costs incurred in cutting or destroying detrimental plants under this chapter:

(1) Chemicals.

(2) Work.

(3) Labor, at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) If the trustee believes the infestation of the real estate with detrimental plants is so great and widespread that cutting or eradication by hand methods is impractical, the trustee shall use the necessary power machinery or equipment. The trustee may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the township trustee. When the bill has been approved, the trustee shall pay the bill out of the township fund. If there is no money available in the township fund for that purpose, the township board, upon finding an emergency exists, shall act under IC 36-6-6-14(b) or IC 36-6-6-15 to borrow money sufficient to meet the emergency.

(d) The trustee, when submitting estimates to the township board for action, shall include in the estimates an item sufficient to cover those expenditures.

Sec. 6. (a) The township trustee shall prepare a statement that contains the following:

(1) A certification of the following costs:

(A) The cost or expense of the work.

(B) The cost of the chemicals.

(C) Twenty dollars ($20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services.

(2) A description of the real estate on which the labor was performed.

(3) A request that the owner or person in possession of the

real estate pay the costs under subdivision (1) to the township trustee.

(b) The certified statement prepared under subsection (a) shall be provided:

(1) to the owner or person possessing the real estate by:

(A) mail, using a certificate of mailing; or

(B) personal service; or

(2) by mailing the certified statement to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

Sec. 7. (a) If the owner or person in possession of the property does not pay the amount set forth in the certified statement under section 6(a) of this chapter within ten (10) days after receiving the notice under section 6(b) of this chapter, the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 8 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds shall be deposited in the trustee's township funds for use at the discretion of the trustee.

Sec. 8. (a) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement under section 6(a) of this chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement under section 6(a) of this chapter for real estate owned by the municipality.

(c) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement under section 6(a) of this chapter for the tax exempt real estate. If the owner of

the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

Sec. 9. Except as provided in sections 5 through 8 of this chapter, the county auditor, upon receiving and filing a certified statement under section 7(a) of this chapter, shall:

(1) immediately place the amounts on the certified statement on the tax duplicate of the county; and

(2) collect the amounts at the next tax paying time for the proper township or townships, the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales.

After the amounts are collected, the amounts shall be paid to the proper trustee and placed in the township fund.

Sec. 10. When the annual township budget is prepared, a sufficient amount shall be appropriated to enable the township officials to comply with this chapter.

Sec. 11. The director of the department of natural resources or the dean of agriculture of Purdue University may totally or partially exempt land that is subject to a program of the department or station from this chapter or any other statute concerning the destruction of detrimental plants.

Sec. 12. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

Sec. 13. A township trustee who fails to perform the duties required of the trustee by this chapter commits a Class C infraction.

Sec. 14. (a) A person who:

(1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;

(2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate the plants by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway:

(A) knowingly allows detrimental plants to grow or mature on the right-of-way of the highway; or

(B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company:

(A) knowingly allows detrimental plants to grow and mature on the right-of-way; or

(B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (cirsium arvense) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the trustee's township funds for use at the discretion of the trustee.

Chapter 9. Control of Johnson Grass

Sec. 1. Between July 1 and September 15:

(1) the Indiana department of transportation;

(2) railroads;

(3) drainage districts;

(4) township boards;

(5) public utilities; and

(6) other public and quasi-public corporations;

shall do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of Indiana.

Sec. 2. The Purdue University cooperative extension service shall provide technical assistance to property owners to control the growth or spread of Johnson grass.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly:

(1) contaminates uninfested land with Johnson grass; or

(2) transports Johnson grass in any form capable of germination;

commits a Class C infraction.

(b) A person does not violate this section if the person has written approval of the dean of agriculture of Purdue University or the dean's designee before performing an act described in subsection (a).

SECTION 8. IC 15-17 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 17. ANIMAL HEALTH AND ANIMAL PRODUCTS

Chapter 1. Purpose

Sec. 1. The following are the purposes of this article:

(1) To promote, encourage, and advance the prevention, detection, control, and eradication of diseases and pests affecting:

(A) the health of animals within Indiana; and

(B) trade in animals and animal products in and from Indiana.

(2) To protect the agricultural public and all other persons who might be damaged through the purchase, sale, or exchange of animals by means of fraud, deception, dishonesty, or discrimination arising out of the marketing of animals.

(3) To safeguard the public health and welfare of the citizens of Indiana against health hazards, annoyances, and nuisances that might arise from the collection, transportation, and cooking of garbage to be fed to swine.

(4) To control and regulate the transportation over the highways of Indiana and the disposal of:

(A) the carcasses of dead animals not slaughtered and intended for human foods; and

(B) the nonedible byproducts from the slaughtering of animals and poultry for human foods;

to the end that the spread of animal diseases in Indiana is controlled and that the public health and welfare of the citizens of Indiana is conserved and protected against dangers, annoyances, and nuisances that might arise from carcasses and byproducts of slaughtering and from the transportation and disposal of carcasses and the byproducts of slaughtering if these activities were not regulated by laws designed to effectuate these purposes and public policy.

(5) To control and regulate the sanitary and health conditions

under which animals are brought upon, consigned to, sold, bartered, or exchanged through, or removed from, the premises of livestock auction markets or community sales, to the end that the spread of diseases and pests of animals in Indiana is controlled and that the public health and welfare of the citizens of Indiana is conserved and protected.

(6) To regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten the public health and welfare of the citizens of Indiana or threaten trade in animals and animal products in and from Indiana.

Sec. 2. This article shall be liberally construed to effect and promote the purposes of this article.

Chapter 2. Definitions

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

Sec. 2. "Adulterated" means a food product that meets any of the following descriptions:

(1) The product bears or contains a poisonous or deleterious substance that may make the product injurious to health. However, if the substance is not an added substance, the product is not considered adulterated under this subdivision if the quantity of the substance in or on the product does not ordinarily make the product injurious to health.

(2) The product bears or contains any of the following:

(A) Any added poisonous or added deleterious substance that is unsafe within the meaning of Section 406 of the federal Food, Drug, and Cosmetic Act and the regulations adopted under that act.

(B) A pesticide chemical that is unsafe within the meaning of Section 408 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

(C) A food additive that is unsafe under Section 409 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

(D) A color additive that is unsafe under Section 721 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

(E) A new animal drug (or conversion product of a new

animal drug) that is unsafe within the meaning of Section 512 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

However, a product that is not considered adulterated under clause (A), (B), (C), (D), or (E) is considered adulterated if use of the pesticide chemical, food additive, or color additive in or on the product is prohibited by rules of the board in food processing establishments.

(3) The product consists in whole or in part of a filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or unfit for human food.

(4) The product has been prepared, packed, or held under unsanitary conditions under which the product may have:

(A) become contaminated with filth; or

(B) been made injurious to health.

(5) The product is in whole or in part the product of an animal, including poultry, that has died from a cause other than slaughter.

(6) The product's container consists in whole or in part of a poisonous or deleterious substance that may make the contents injurious to health.

(7) The product has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or an exemption in effect under the federal Food, Drug, and Cosmetic Act.

(8) The product is altered because:

(A) a valuable constituent has been in whole or in part omitted or removed from the product;

(B) a substance has been substituted wholly or in part for the product;

(C) damage or inferiority has been concealed in any manner; or

(D) a substance has been added to the product or mixed or packed with the product to increase the product's bulk or weight, reduce the product's quality or strength, or make the product appear better or of greater value than the product is.

(9) The product is oleomargarine or margarine containing animal fat and any of the raw material used in the product

consisted in whole or in part of a filthy, putrid, or decomposed substance or is unfit for human food.

Sec. 3. "Animal" means a member of the animal kingdom, except humans.

Sec. 4. "Antemortem inspection" means the inspection of all livestock or poultry before slaughter on the day of slaughter at an official establishment.

Sec. 5. "Approved certificate of veterinary inspection" means an official certificate of veterinary inspection that contains the approval of the chief livestock sanitary official of the state of origin.

Sec. 6. "Approved slaughtering establishment" means an establishment operating under:

(1) the federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(2) the federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.); or

(3) IC 15-17-5.

Sec. 7. "Baby chick" means any domestic fowl under the age of six (6) weeks.

Sec. 8. "Board" means the Indiana state board of animal health established by IC 15-17-3-1.

Sec. 9. "Brucellosis" (commonly known as abortion disease or Bang's disease) means a dangerous, communicable, and infectious disease in animals caused by brucella organisms.

Sec. 10. "Bulk milk hauler/sampler" means a person who does the following:

(1) Collects official samples.

(2) May transport raw milk in bulk form.

(3) Transports milk to or from a milk plant, receiving station, or transfer station.

Sec. 11. "Bulk milk pickup tanker" means a vehicle, including the truck, tank, and associated equipment necessary for its use, used by a bulk milk hauler/sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station.

Sec. 12. "Bulk milk route" means a group of dairy farms from which milk is collected in a bulk milk pickup tanker and transported to a milk plant, receiving station, or transfer station.

Sec. 13. "Can milk hauler" or "cream hauler" means a person

who transports raw fluid milk in cans to a milk plant, receiving station, or transfer station.

Sec. 14. "Can milk route" means a group of dairy farms from which milk is collected in milk cans and transported to a milk plant, receiving station, or transfer station.

Sec. 15. "Capable of use as human food" means any livestock or poultry carcass or part or product of a livestock or poultry carcass, unless the carcass or part or product of the carcass is:

(1) denatured or identified as not for human food as required by rules adopted by the board to deter its use as human food; or

(2) naturally inedible by humans.

Sec. 16. "Certificate" and "certificate of veterinary inspection" means an official document issued by a state or federal representative or an accredited veterinarian that records a veterinary inspection of an animal, statements about the health of an animal, tests conducted on an animal, vaccinations given an animal, and other information about an animal and the animal's movement that is required by a state or the United States to be recorded.

Sec. 17. "Certified brucellosis free herd" means a herd that is certified as free from brucellosis as defined by rules of the board and regulations of the United States Department of Agriculture made under any cooperative agreement authorized by this article.

Sec. 18. "Color additive" has the meaning set forth in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 19. "Commerce" means commerce within Indiana.

Sec. 20. "Concentration point" means a licensed place of business under IC 15-17-14 where only feeder pigs, to which the licensee has taken title, are assembled for resale.

Sec. 21. (a) "Consignor" means any person consigning, shipping, or delivering animals for sale, resale, or exchange.

(b) The term includes any person who causes animals to be transported or who delivers animals to a livestock auction market for the purpose of sale.

Sec. 22. "Container" means any box, can, tin, cloth, package, plastic, or other receptacle, wrapper, or cover.

Sec. 23. "Dairy farm" means a place:

(1) where at least one (1) lactating cow, sheep, goat, water

buffalo, or other hoofed mammal is kept; and

(2) from which a part or all of the milk or milk products that are produced are provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

Sec. 24. (a) Except as specifically exempted or excluded by this article, "dealer" means any person who is engaged in the business of buying, selling, or negotiating the transfer of livestock:

(1) for processing into meat products in conjunction with the operation of a business enterprise; or

(2) for resale, transfer, or final disposition in any other manner.

(b) The term includes the following:

(1) Market agencies.

(2) Stockyards.

(3) Livestock auction markets.

(4) Auction markets.

(5) Buying stations.

(6) Concentration points.

(c) For purposes of IC 15-17-5, the term means a person engaged in the business of buying or selling livestock products or poultry products on commission or negotiating purchases or sales of livestock products or poultry products other than for the person's own account or as an employee of another person.

Sec. 25. (a) "Disposal plant" means any plant and all associated equipment that is constructed or intended to be operated for the disposal of the following:

(1) The bodies of dead animals not slaughtered and intended for human food.

(2) The nonedible byproducts from the slaughtering of animals for human food, including the disposal of the body of any animal slaughtered for human food that has become unsuitable for use as human food.

(3) The disposal of the bodies of dead poultry not suitable for human food and of poultry byproducts, including the viscera, heads, feet, and poultry feathers.

(b) The term includes all substations of any plant that are used in connection with a disposal business for the temporary deposit of animal bodies and nonedible byproducts pending final delivery to any disposal plant, including all vehicles and equipment used for

the transportation of the bodies and nonedible byproducts.

Sec. 26. (a) "Domestic animal" means an animal that is not wild.

(b) The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, emus, or other birds;

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, avian, camelid, cervidae, or bison species; or

(3) an aquatic animal that may be the subject of aquaculture (as defined in IC 15-11-7-1).

Sec. 27. "Employee" means a person employed by the board, including the state veterinarian, assistant state veterinarian, deputies, and assistants.

Sec. 28. "Establishment", for purposes of IC 15-17-5, means a building, part of a building, or other location used for:

(1) slaughtering livestock or poultry; or

(2) preparing meat, poultry, meat food products, and meat byproducts capable of use as human food.

Sec. 29. "Federal acts", for purposes of IC 15-17-5, means the following:

(1) The federal Meat Inspection Act (21 U.S.C. 601 et seq.).

(2) The federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

Sec. 30. "Federal Food, Drug, and Cosmetic Act" means the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 31. "Feeder pig" means swine of any breed weighing not more than one hundred eighty (180) pounds.

Sec. 32. "Food" means the following:

(1) All articles used for food, drink, confectionary, or condiment whether simple, mixed, or compound.

(2) All substances or ingredients used in the preparation of the items described in subdivision (1).

Sec. 33. "Food additive" has the meaning set forth in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 34. (a) "Garbage" means:

(1) any waste material derived in whole or in part from any animal, including fish and poultry; or

(2) refuse from the handling, preparation, cooking, or consumption of food that has been associated with waste material derived in whole or in part from any animal,

including fish and poultry.

(b) The term does not include:

(1) bakery waste;

(2) candy waste;

(3) eggs;

(4) domestic dairy products; or

(5) waste from ordinary household operations that is fed directly to swine on the same premises where the household is located.

Sec. 35. "Grade A dry milk and whey products" means milk products that have been:

(1) produced for use in Grade A pasteurized or aseptically processed milk products; and

(2) manufactured under the federal Food and Drug Administration "Grade A Condensed and Dry Milk Products – Condensed and Dry Whey Supplement I to the Grade A Pasteurized Milk Ordinance".

Sec. 36. "Grade A milk and milk products" means milk and milk products that meet the requirements for Grade A in IC 15-18-1 and in the rules adopted under IC 15-18-1.

Sec. 37. "Herd", except as provided in IC 15-17-3-22(a), means a group or groups of animals that are:

(1) maintained on common ground; or

(2) geographically separated but under common ownership, supervision, or control.

Sec. 38. (a) "Humane method" means a method by which livestock is made insensible to pain by mechanical, electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut.

(b) The term does not include the use of a manually operated hammer, sledge, or poleax.

Sec. 39. "Immediate container" means a container, receptacle, or other covering in which milk products, livestock products, or poultry products are directly contained or wholly or partially enclosed.

Sec. 40. (a) "Immediate slaughter" means any animal purchased or sold for:

(1) immediate slaughter; or

(2) slaughter and will be slaughtered by the purchaser not

later than seven (7) days after purchase or will be consigned to an establishment or to a properly licensed market facility for reconsignment to a slaughtering establishment not later than seven (7) days after acquiring the animal.

(b) The term does not include an animal that is diverted for any other purpose or use besides immediate slaughter.

Sec. 41. "Inedible" means not suitable for human consumption.

Sec. 42. "Inspector" means an individual who is authorized by the board to perform any inspection functions under this article and who meets any of the following criteria:

(1) The person is authorized by the state veterinarian to do any work or perform any duty in connection with the inspection of animals and food products under this article.

(2) The person is an employee or official of the government of the county or other governmental subdivision of this state acting under an agreement between the state veterinarian and a governmental subdivision.

Sec. 43. "Label" means a display of written, printed, or graphic matter upon an article or the immediate container, excluding package liners, of an article.

Sec. 44. "Labeling" means all labels and other written, printed, or graphic matter:

(1) placed upon an article or any of the article's containers or wrappers; or

(2) accompanying an article.

Sec. 45. "Laboratory" means:

(1) the animal disease diagnostic laboratory established by IC 21-46-3-1; or

(2) any other laboratory approved by the board.

Sec. 46. "Licensed and accredited veterinarian" means a veterinarian:

(1) licensed by any state; and

(2) accredited by the United States Department of Agriculture under 9 CFR Subchapter J to perform official functions.

Sec. 47. (a) "Livestock", except as provided in subsection (b), means domestic animals, except the following:

(1) Aquatic animals.

(2) Fish.

(3) Dogs.

(4) Cats.

(5) Poultry and other birds; however, the term includes ratites that are domestic animals under section 26 of this chapter.

(b) "Livestock", for purposes of IC 15-17-5, means the following, whether live or dead:

(1) Cattle.

(2) Sheep.

(3) Swine.

(4) Goats.

(5) Bison.

(6) Farm raised cervidae.

(7) Ratitae.

(8) Horses, mules, or other equines.

Sec. 48. "Livestock auction market" means an established place of business and contiguous surroundings where animals are consigned to be sold at public auction by the operator of the business as an agent for the consignor in exchange for a commission paid by the consignor.

Sec. 49. "Livestock product" means:

(1) a carcass;

(2) part of a carcass;

(3) meat; or

(4) a meat food product;

of livestock.

Sec. 50. "Livestock transaction", for purposes of IC 15-17-15, means the following:

(1) For market agencies selling livestock on commission, the dollar value of livestock sold on commission.

(2) For market agencies buying on commission and dealers buying livestock, the dollar value of livestock purchased.

(3) For market agencies acting as a clearing agency, the dollar value of livestock purchased by all persons for whom the market agency served as a clearer.

Sec. 51. "Manufacturing grade milk products" means dairy products that are not considered Grade A under IC 15-18-1 or under the rules adopted under IC 15-18-1.

Sec. 52. "Manufacturing grade raw milk" means milk produced on a dairy farm that does not have a valid permit issued by the board to sell Grade A raw milk for pasteurization.

Sec. 53. "Market agency" means a person who buys or sells livestock on a commission basis.

Sec. 54. (a) "Meat food product" and "meat product" means a product capable of use as human food that is made wholly or in part from meat or other part of the carcass of:

(1) cattle;

(2) sheep;

(3) swine;

(4) equines;

(5) bison;

(6) farm raised cervidae;

(7) ratitae; or

(8) goats.

(b) The term does not include products that:

(1) contain meat or other parts of such carcasses only in a relatively small proportion; or

(2) historically have not been considered by consumers as products of the meat food industry and that are exempted from definition as a meat food product by the state veterinarian under conditions the state veterinarian prescribes to ensure that the meat or other parts of the carcass contained in the product are not adulterated and that the products are not represented as meat food products.

Sec. 55. "Milk" means the lacteal secretion practically free from colostrum that:

(1) is obtained by the complete milking of healthy dairy animals; and

(2) meets a definition and standard of identity for milk adopted by the board under IC 4-22-2.

Sec. 56. (a) "Milk distributor" means a person that offers for sale or sells milk or milk products to another person.

(b) The term does not include the following:

(1) A store or market that receives and sells bottled or packaged milk and milk products in the original container or package to consumers.

(2) A restaurant, soda fountain, or similar establishment serving milk or milk products.

Sec. 57. (a) "Milk plant" means a place, a premises, or an establishment where milk or milk products are collected, handled,

processed, stored, ultrapasteurized, bottled, aseptically processed, condensed, dried, packaged, or prepared for distribution.

(b) The term does not include soft ice cream dispensers in restaurants as defined by the board.

Sec. 58. "Milk producer" means a person that does the following:

(1) Operates a dairy farm.

(2) Provides, sells, or offers raw milk for sale to a milk plant, receiving station, or transfer station.

Sec. 59. "Milk products" means those products designated by the rules of the board as:

(1) being within IC 15-18-1; and

(2) conforming to the definitions and standards of identity specified in those rules.

Sec. 60. "Milk tank truck" means a bulk milk pickup tanker or a milk transport tank.

Sec. 61. "Milk tank truck cleaning facility" means any place, premises, or establishment that is separate from a milk plant, receiving station, or transfer station where a milk tank truck is cleaned and sanitized.

Sec. 62. "Milk transport tank" means a vehicle, including the truck and tank, used by a bulk milk hauler/sampler to transport bulk shipments of milk from a milk plant, receiving station, or transfer station to another milk plant, receiving station, or transfer station.

Sec. 63. "Milk transportation company" means a person that is responsible for a milk tank truck.

Sec. 64. "Misbranded" means a food product that meets any of the following descriptions:

(1) The product's labeling is false or misleading in any way.

(2) The product is offered for sale under the name of another food.

(3) The product is an imitation of another food, unless the product's label bears, in type of uniform size and prominence, the word "imitation" and immediately afterward, the name of the food imitated.

(4) The product's container is made, formed, or filled in a manner that is misleading.

(5) Except as provided in IC 15-17-3-22(b), the product, if in

packaged form, does not bear a label containing the following:

(A) The name and place of business of the manufacturer, packer, or distributor.

(B) Except as provided in IC 15-17-3-22(c), an accurate statement of the quantity of the product in terms of weight, measure, or numerical count.

(6) A word, statement, or other information required under this chapter or the rules adopted under this chapter to appear on a product's label or other labeling is not prominently placed on the label with sufficient conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in terms making it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(7) The product purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the rules of the board unless:

(A) the product conforms to the definition and standard; and

(B) the product's label bears the name of the food specified in the definition and standard and, as required by rules of the board, the common names of optional ingredients other than spices, flavoring, and coloring present in the food.

(8) The product purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by rules of the board and the product falls below the applicable standard of fill of container unless the label bears, in a manner and form that the rules specify, a statement that the product falls below that standard.

(9) The product's label does not bear the following:

(A) The common or usual name of the food, if any.

(B) Except as provided in IC 15-17-3-22(d), if the product is fabricated from at least two (2) ingredients, the common or usual name of each ingredient. However, spices, flavorings, and colorings may, when authorized by the state veterinarian, be designated as spices, flavorings, and colorings without naming each ingredient.

(10) The product purports to be or is represented for special dietary uses, unless the product's label bears information

concerning the product's vitamin, mineral, and other dietary properties that the board determines to be necessary to fully inform purchasers of the product's value for the special dietary uses as set forth in rules adopted by the board.

(11) Except as provided in IC 15-17-3-22(e), the product contains artificial flavoring, artificial coloring, or a chemical preservative, unless the product bears labeling stating that fact.

(12) The product fails to bear directly on the product and on the product's containers information the board prescribes by rule, including an official mark, to ensure that the product will not have false or misleading labeling and that the public will be reasonably informed about the product.

Sec. 65. "Modified accredited or tuberculosis free area" means an area that meets the requirements established by the board and the United States department of agriculture under a cooperative agreement as provided for by this article.

Sec. 66. "Move" means the following:

(1) To carry, enter, import, mail, ship, or transport.

(2) To aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting.

(3) To offer to carry, enter, import, mail, ship, or transport.

(4) To receive in order to carry, enter, import, mail, ship, or transport.

(5) To release into the environment.

(6) To allow any of the activities described in this section.

Sec. 67. "Nonedible" means not suitable for human consumption.

Sec. 68. "Oath" includes affirmation.

Sec. 69. "Object", for purposes of IC 15-17-1 through IC 15-17-17, means a pest or disease or a material or tangible thing that could harbor a pest or disease.

Sec. 70. "Official certificate", for purposes of IC 15-17-5, means a certificate prescribed by rules of the board for issuance by an inspector or other person performing official functions under IC 15-17-5.

Sec. 71. "Official device" means a device prescribed or authorized by the state veterinarian for use in applying an official mark.

Sec. 72. "Official establishment", for purposes of IC 15-17-5, means an establishment that has been granted inspection under IC 15-17-5.

Sec. 73. "Official health certificate" or "official certificate of veterinary inspection" means an official document issued by a state or federal representative or an accredited veterinarian who records a veterinary inspection of an animal, statements about the health of an animal, tests conducted on an animal, vaccinations given an animal, and other information about an animal and the animal's movement that is required by a state or by the United States to be recorded.

Sec. 74. "Official identification" means the method of identification recognized or required by the board for an animal or class of animals under a rule adopted by the board under IC 4-22-2.

Sec. 75. "Official inspection legend" means a symbol prescribed by rules of the board showing that an article was inspected and passed in accordance with IC 15-17-5.

Sec. 76. "Official laboratory" means a biological, chemical, or physical laboratory that meets the following conditions:

(1) The laboratory is under the direct supervision of the board or a state or local governmental agency designated by the board.

(2) The laboratory is authorized and certified by the board to do official work.

Sec. 77. "Official mark" means the official inspection legend or other symbol prescribed by rules of the board to identify the status of an article, livestock, or poultry under IC 15-17-5.

Sec. 78. "Officially designated laboratory" means:

(1) a commercial laboratory authorized and certified by the board to do official work; or

(2) an industry laboratory authorized and certified by the board to do official work.

Sec. 79. "Officially vaccinated calves" means calves that were vaccinated in accordance with the state rules and federal regulations existing at the time of vaccination.

Sec. 80. "Packer" means any person engaged in the business of:

(1) buying livestock to be slaughtered for food;

(2) manufacturing or preparing meat or meat food products

for sale or shipment in commerce; or

(3) marketing meat and meat food products acting as a wholesaler, broker, dealer, or distributor.

Sec. 81. "Packers and Stock Yards Act" means the act of Congress designated as the Packers and Stock Yards Act of 1921 (42 U.S. Statutes at Large, page 159), all statutes amending the act, and all regulations adopted under the act.

Sec. 82. "Pasteurization", "pasteurized", and similar terms mean the following:

(1) The process of heating every particle of milk or milk products (except ice cream, ice milk, and sherbet mixture) to:

(A) at least one hundred forty-five (145) degrees Fahrenheit and holding the particle continuously at or above this temperature for at least thirty (30) minutes; or

(B) at least one hundred sixty-one (161) degrees Fahrenheit and holding the particle continuously at or above this temperature for at least fifteen (15) seconds;

in equipment that is properly operated and approved by the board.

(2) The process of heating milk products that have higher milk fat content than milk or that contain added sweeteners to:

(A) at least one hundred fifty (150) degrees Fahrenheit and held continuously at or above this temperature for at least thirty (30) minutes; or

(B) at least one hundred sixty-six (166) degrees Fahrenheit and held continuously at or above this temperature for at least fifteen (15) seconds.

(3) The process of heating every particle of ice cream, ice milk, or sherbet mixture (except fruits, fruit juices, nuts, cocoa or chocolate, maple syrup, cakes, confections, or other flavoring or color) to:

(A) one hundred fifty-five degrees (155) Fahrenheit and holding the particle continuously at or above this temperature for at least thirty (30) minutes;

(B) at least one hundred seventy-five (175) degrees Fahrenheit and holding the particle continuously at or above this temperature for at least twenty-five (25) seconds; or

(C) at least one hundred ninety-four (194) degrees

Fahrenheit for at least one-half (1/2) second.

(4) Any other pasteurization process that is found to be equally efficient and that is approved by rule of the board.

Sec. 83. "Person" means any individual, trustee, receiver, corporation, limited liability company, partnership, and any other firm, organization, association, cooperative, or group of individuals or persons.

Sec. 84. "Pest" means any of the following that can directly or indirectly injure, cause damage to, or cause disease in animals:

(1) A protozoan.

(2) A plant.

(3) A bacterium.

(4) A fungus.

(5) A virus or viroid.

(6) An infectious agent or other pathogen.

(7) An arthropod.

(8) A parasite.

(9) A prion.

(10) A vector.

(11) An organism similar to or allied with any of the organisms described in this section.

Sec. 85. "Pesticide chemical" has the meaning set forth in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 86. "Postmortem inspection" means the inspection of livestock or poultry at the time of slaughter at an official establishment.

Sec. 87. "Poultry", for purposes of IC 15-17-5, means a domesticated bird, whether live or dead.

Sec. 88. (a) "Poultry product", for purposes of IC 15-17-5, means a poultry carcass, part of a poultry carcass, or a product that is made wholly or in part from a poultry carcass or part of a poultry carcass.

(b) The term does not include products that:

(1) contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry; and

(2) are exempted by the board.

Sec. 89. "Practice of veterinary medicine" has the meaning set forth in IC 25-38.1-1-12.

Sec. 90. "Prepared" means slaughtered, canned, cured, salted, smoked, stuffed, rendered, boned, cut up, frozen, dried, stored, or otherwise manufactured or processed.

Sec. 91. "Private sale" means any sale other than a public sale.

Sec. 92. "Public sale" means a sale where the general public is invited to participate whether held at an established place of business or at a place where sales are infrequently held.

Sec. 93. "Reactor" means an animal that has been tested for a certain disease and shows a positive reaction to an official test for the disease according to existing state rules or federal regulations at the time of the test.

Sec. 94. (a) "Receiving station" means a place, a premises, or an establishment where milk or milk products are collected, handled, stored, or cooled and prepared for distribution.

(b) The term does not include soft ice cream dispensers in restaurants as defined by the board.

Sec. 95. "Rendered product" means waste material derived in whole or in part from any animal, including fish and poultry, and refuse from the handling, preparation, cooking, or consumption of food that has been ground and heated to a minimum temperature of two hundred thirty (230) degrees Fahrenheit to make products such as animal, poultry, or fish protein meal, grease, or tallow.

Sec. 96. (a) "Renderer" means a person engaged in the business of operating a disposal plant for the rendering of livestock or poultry carcasses or parts or products of such carcasses.

(b) The term does not include rendering conducted under inspection or exemption under IC 15-17-5.

Sec. 97. (a) "Sale", "sell", or "selling" means sale, lease, donation, trade, barter, or exchange in any manner.

(b) The term includes the following:

(1) Manufacture, processing, transporting, handling, packing, canning, bottling, or any other productions, preparation, or putting up.

(2) Exposure, offer, or any other proffer.

(3) Holding, storing, or any other possession.

Sec. 98. (a) "Stockyards" means a place, an establishment, or a facility conducted, operated, or managed for profit or not for profit as a public market in which livestock is assembled for purchase or sale at competitive bidding, or purchase by the persons operating

the stockyards.

(b) The term includes concentration points where livestock is assembled for redistribution or resale by means other than competitive bidding.

(c) The term does not include livestock auction markets.

Sec. 99. "Transfer station" means a place, a premises, or an establishment where milk or milk products are transferred directly from one (1) milk tank truck to another.

Sec. 100. "Transport vehicle" means a vehicle used for transporting:

(1) dead animal bodies;

(2) nonedible byproducts from the slaughtering of animals and poultry; or

(3) restaurant grease.

Sec. 101. "Tuberculosis" means tuberculosis in an animal.

Sec. 102. "Veterinarian" means a person authorized by law to practice veterinary medicine.

Chapter 3. Board of Animal Health

Sec. 1. The Indiana state board of animal health is established.

Sec. 2. The board consists of eleven (11) members appointed by the governor as follows:

(1) One (1) member from the school of veterinary medicine of Purdue University upon the recommendation of the Purdue University board of trustees.

(2) Two (2) members, each of whom must:

(A) be a graduate of a veterinary college accredited by the American Veterinarian Medical Association and licensed and accredited to practice veterinary medicine and surgery in Indiana;

(B) have at least five (5) years experience in veterinary medicine; and

(C) actually be engaged in the general practice of veterinary medicine during the member's term on the board.

The members appointed under this subdivision may not belong to the same political party.

(3) Seven (7) members with the following qualifications:

(A) One (1) member must be engaged in poultry production.

(B) One (1) member must be engaged in dairying.

(C) One (1) member must be engaged in swine production.

(D) One (1) member must be engaged in beef-type cattle production.

(E) One (1) member must be engaged in horse production.

(F) One (1) member must be engaged in sheep production.

(G) One (1) member must be:

(i) engaged in small animal veterinary medical practice; and

(ii) a veterinarian licensed and accredited to practice veterinary medicine and surgery in Indiana who has been licensed and accredited for at least five (5) years.

The members appointed under clauses (A) through (F) must be producers of livestock or poultry who are engaged in livestock or poultry production during their service on the board. Not more than four (4) of the members appointed under this subdivision may belong to the same political party.

(4) One (1) member who is affiliated with a licensed livestock market.

Sec. 3. A member of the board may not be directly or indirectly interested as director, officer, salesman, or employee of a person engaged in the manufacture or sale of any commercial product, byproduct, or biological product affecting the livestock industry.

Sec. 4. A member of the board is entitled to a per diem and transportation expense as provided by law when engaged in the member's official duties.

Sec. 5. (a) The term of a member of the board is four (4) years beginning on April 1.

(b) A member serves until the member's successor is appointed and qualified.

(c) Except as provided in subsection (d), a person is not eligible to serve as a member of the board for more than two (2) consecutive full terms.

(d) Subsection (c) does not apply to the member appointed from the school of veterinary medicine at Purdue University under section 2(1) of this chapter.

Sec. 6. (a) The terms of:

(1) the member engaged in dairying; and

(2) the member engaged in swine production;

appointed under section 2(3) of this chapter expire March 31, 2008, and every four (4) years thereafter.

(b) The terms of:

(1) the members engaged in:

(A) poultry production; and

(B) sheep production;

appointed under section 2(3) of this chapter; and

(2) one (1) veterinarian member appointed under section 2(2) of this chapter;

expire March 31, 2009, and every four (4) years thereafter.

(c) The terms of:

(1) the member engaged in horse production appointed under section 2(3) of this chapter; and

(2) the member affiliated with a licensed livestock market appointed under section 2(4) of this chapter;

expire March 31, 2010, and every four (4) years thereafter.

(d) The terms of:

(1) the members engaged in:

(A) beef-type cattle production; and

(B) small animal veterinary medical practice;

appointed under section 2(3) of this chapter; and

(2) one (1) veterinarian member appointed under section 2(2) of this chapter;

expire March 31, 2011, and every four (4) years thereafter.

Sec. 7. At least thirty (30) days before the expiration of the term of office of a member of the board, the governor shall appoint a successor.

Sec. 8. In the event of a vacancy, the governor shall immediately appoint a successor to complete the unexpired term.

Sec. 9. The board shall elect a chairperson and vice chairperson from the board's membership each year at the board's April meeting. The chairperson and vice chairperson each serve a term of one (1) year. The state veterinarian serves as secretary of the board.

Sec. 10. (a) The board:

(1) shall hold quarterly meetings at the board's office in Indianapolis, during January, April, July, and October of each year; and

(2) may hold special meetings upon the call of the chairperson

or a majority of the members of the board.

(b) Six (6) members of the board constitute a quorum to transact business.

Sec. 11. The board has general supervision of:

(1) the prevention, detection, control, and eradication of diseases and pests affecting the health of animals within and in transit through Indiana; and

(2) the production, manufacture, processing, and distribution of products derived from animals;

to control health hazards that may threaten the public health and welfare of the citizens of Indiana.

Sec. 12. The board has all powers necessary to fulfill the board's duties under this article.

Sec. 13. In addition to the powers and duties given the board in this article and by law, the board has the powers and duties reasonable and necessary to do the following:

(1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.

(2) Develop, adopt, and implement programs and procedures for establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:

(A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.

(B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.

(C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.

(3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.

(4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects

originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.

(5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.

(6) Control the use, sanitation, and disinfection of:

(A) public stockyards; and

(B) vehicles used to transport animals and objects into and within Indiana;

to accomplish the objectives of this article.

(7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this article.

(8) Control the movement of animals and objects to, from, and within premises where diseases or pests of animals may exist.

(9) Control the movement and disposal of carcasses of animals and objects.

(10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.

(11) Control and prescribe the means, methods, and procedures for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.

(12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:

(A) of animals or objects that have been condemned under this article; and

(B) related to classification as to disease, testing, vaccination, or treatment status.

(13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the

sale or other disposition of the animals or objects.

(14) Control the sale of baby chicks.

(15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.

(16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.

(17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.

(18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of animals.

(19) Investigate, develop, and implement the best methods for the prevention, detection, control, suppression, or eradication of diseases and pests of animals.

(20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.

(21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.

(22) Institute legal action in the name of the state of Indiana necessary to enforce:

(A) the board's orders and rules; and

(B) this article.

(23) Control the collection, transportation, and cooking of garbage to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.

(24) Adopt an appropriate seal.

(25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.

(26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.

(27) Abate biological or chemical substances that:

(A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and

(B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock producers with issues and programs related to the care of livestock.

Sec. 14. The board may delegate any of the board's duties to the state veterinarian, except the following:

(1) The duty to supervise the state veterinarian.

(2) The duty to hold hearings under this article and IC 4-21.5.

(3) The duty to adopt rules.

Sec. 15. (a) The board or the board's agent:

(1) may make sanitary inspections and surveys; and

(2) may enter upon any public or private property where any animals or objects are at the time quartered, including the location of the carcass of any animal;

to inspect the property, examine the animals or objects, conduct tests in regard to the presence of diseases or pests of animals and the possible cause and sources of the disease or pest, and perform any other function authorized by this article.

(b) The board or the board's agent may hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to any animal or progeny of any animal, object, or means of conveyance that the board or the board's agent:

(1) has reason to believe:

(A) may carry, may have carried, or may have been affected by or exposed to any disease or pest of animals; or

(B) violates this article or a rule adopted under this article;

(2) finds is not being maintained or has not been maintained in accordance with a quarantine or condition imposed under this article, a rule adopted under this article, or an order issued under this article; or

(3) determines must be acted upon to prevent the dissemination of a disease or pest of animals.

Sec. 16. The board, over the signature of the chairperson or another board member authorized by the board, may do the following to accomplish the board's objectives:

(1) Subpoena and bring before the board any person in this state to take testimony either orally or by deposition or by exhibit, with the same fees and mileage, and in the same manner as prescribed by law in judicial procedure in civil cases in the circuit courts of Indiana.

(2) Subpoena and order any person to provide to board personnel for inspection and copying records, photographs, and any other type of document or data compilation, or to allow access for inspection, copying, testing, sampling, analysis, or treatment to any tangible thing, including animals, carcasses of animals, animal feed, and meat, dairy, and other human food products.

Sec. 17. An agent of the board may administer oaths to witnesses at any hearing that the board is authorized by law to conduct.

Sec. 18. (a) The board may require, by general or special order, licensees and permittees under this article to file with the board in a prescribed form:

(1) annual, periodic, or special reports; or

(2) answers, in writing, to specific questions;

to provide information concerning the business conduct of the licensee or permittee and the practices and management of the business of the licensee or permittee as the practices and management relate to other persons in the same business.

(b) The board may require that the reports and answers under this section be made under oath and filed within a reasonable time if the requirements are determined to be essential by the board.

Sec. 19. The board may, on behalf of the state, accept or adopt, in whole or in part, federal laws, including regulations adopted by agencies of the United States that are necessary or helpful in fulfilling the board's duties under this article. The board may cooperate with the authorities of the United States government within Indiana in enforcing state and federal laws.

Sec. 20. The board may accept, use, and expend funds or other resources from sources other than the state if:

(1) the resources are awarded for the pursuit of a specific objective that the board is authorized to accomplish under this article or that the board is qualified to accomplish by reason of the board's jurisdiction or professional expertise;

(2) the resources are expended for the pursuit of the objective for which the resources are awarded;

(3) activities connected with or occasioned by the expenditure of the resources do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers and duties under this article;

(4) monetary resources are kept in separate accounts in the state treasury; and

(5) reports of the board's receipt and use of the resources are prepared periodically.

Sec. 21. The board shall adopt rules under IC 4-22-2 that are reasonable and necessary to discharge the duties imposed on the board by law and to implement this article, IC 15-18-1, and IC 15-19-6.

Sec. 22. (a) Notwithstanding IC 15-17-2-37, the board may adopt by rule a different definition of "herd" to advance a disease control program or objective.

(b) Notwithstanding IC 15-17-2-64(5), the board may adopt rules concerning livestock products that are not in containers to establish the circumstances under which those products are not considered misbranded.

(c) Notwithstanding IC 15-17-2-64(5)(B), the board may adopt rules concerning small containers to establish variations or exemptions from label quantity statements under which the containers are not considered misbranded.

(d) Notwithstanding IC 15-17-2-64(9)(B), the board shall adopt

rules to establish exemptions for product labels that do not bear the common or usual name of each ingredient in a product fabricated from at least two (2) ingredients under which the products are not considered misbranded if listing the common or usual name of each ingredient is impracticable or results in deception or unfair competition.

(e) Notwithstanding IC 15-17-2-64(11), the board shall adopt rules to establish exemptions for products that contain artificial flavoring, artificial coloring, or a chemical preservative under which the products are not considered misbranded if the products do not bear a label stating that the products contain those substances if stating that fact is impracticable.

Chapter 4. Personnel

Sec. 1. (a) The state veterinarian shall be appointed by the board with the approval of the governor.

(b) The state veterinarian serves as the chief administrative officer of the board.

Sec. 2. The state veterinarian:

(1) must:

(A) be a graduate of a recognized veterinary college;

(B) be licensed and accredited to practice veterinary medicine in Indiana; and

(C) have at least five (5) years experience as a general practitioner of veterinary medicine or as a veterinary administrator, or both; and

(2) may not be a member of the board.

Sec. 3. The state veterinarian shall serve a term of four (4) years.

Sec. 4. A vacancy in the office of state veterinarian shall be filled for the unexpired term in the same manner as for a full term.

Sec. 5. The state veterinarian:

(1) serves as secretary of the board;

(2) provides technical advice and assistance to the board of veterinary medical examiners; and

(3) performs the duties delegated by the board to the state veterinarian.

Sec. 6. The state veterinarian may, subject to the approval of the board:

(1) organize the personnel and functions of the board into

divisions and subdivisions;

(2) delegate responsibilities to the divisions and employees; and

(3) consolidate, divide, or abolish the divisions and subdivisions;

as necessary to carry out the state veterinarian's powers and duties and the powers and duties of the board.

Sec. 7. The salary of the state veterinarian is fixed by the board with the approval of the governor.

Sec. 8. The board:

(1) may appoint one (1) assistant state veterinarian; and

(2) shall appoint other employees necessary to carry out this article.

Sec. 9. All employees of the board shall be selected on a nonpartisan basis and may not be discharged for political reasons.

Sec. 10. The salary of the employees of the board shall be fixed according to IC 4-12-2.

Sec. 11. Employees are entitled to receive necessary transportation and per diem expenses while away from the employees' official station and performing official duties.

Sec. 12. (a) An employee may not receive or collect any fee or other payment for any services provided as an employee.

(b) To learn professional skills and become familiar with new developments in the field of veterinary medicine, the state veterinarian or other veterinarians employed by the board may, in an individual capacity as a licensed veterinarian but not in an official capacity as a board employee, engage in the private practice of veterinary medicine if the private practice of veterinary medicine does not interfere with the employee's performance of duties as an employee of the board or does not violate state laws governing ethics and conflicts of interest.

(c) The board may impose conditions or restrictions on the practice of veterinary medicine by the board's employees to facilitate the performance of board duties and compliance with state ethics laws.

(d) The state is not liable for any act performed by the state veterinarian or a board employee performed in the private practice of veterinary medicine.

Sec. 13. (a) The state veterinarian and any other nonmerit

employee may be removed for cause by a majority vote of the entire membership of the board.

(b) If the board votes to remove a nonmerit employee, that employee must be notified of that decision in writing. Before the removal of a nonmerit employee becomes effective, the employee has ten (10) days after receiving written notification to make a written request for a public hearing regarding the removal. However, the board is not required to hold a hearing unless requested to do so by the nonmerit employee. If a request for a hearing is not made, the removal is effective upon the expiration of the ten (10) day period. If a request for a hearing is made, a public hearing shall be held at the office of the board not later than ten (10) days after the request is received by the board, and the employee may not be removed until after the hearing has been held and the board has made a decision.

(c) A merit employee may be removed under IC 4-15-2.

Chapter 5. Meat and Poultry Inspection; Humane Slaughter Act

Sec. 1. The purpose of this chapter is to do the following:

(1) Safeguard the public health and promote public welfare by:

(A) preventing the slaughter of dead, dying, disabled, or diseased livestock or poultry for human food purposes; and

(B) preventing the manufacture, processing, storage, transportation, and sale of adulterated meat and poultry products for human food purposes.

(2) Eliminate the manufacture, processing, distribution, and sale of fraudulent, misbranded, or deceptive products of livestock and poultry origin.

(3) Prohibit the use of nonhumane methods in the slaughter of livestock and poultry.

(4) Provide for humane slaughter of livestock and poultry and for meat and poultry products inspection programs that will impose and enforce requirements with respect to intrastate operations and commerce that are at least equal to those imposed and enforced under the federal Humane Slaughter Act (7 U.S.C. 1901 et seq.), the federal Meat Inspection Act (21 U.S.C. 601 et seq.), and the federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.) with respect to operations and transactions in interstate commerce.

(5) Aid in the control of livestock and poultry diseases by discovering the origins of diseased livestock and poultry found in antemortem inspections and obtaining samples of blood and tissue specimens as considered necessary for the control of livestock and poultry diseases.

Sec. 2. The state veterinarian shall administer this chapter to accomplish the purposes set forth in section 1 of this chapter.

Sec. 3. The board is designated as the appropriate state agency to cooperate with the Secretary of Agriculture of the United States in the administration of this chapter.

Sec. 4. To accomplish the objectives of this chapter, the board or an agent of the board may do the following:

(1) Require by rules the following:

(A) Antemortem inspection and postmortem inspection of livestock and poultry slaughtered for distribution as human food.

(B) Except for the operations of establishments exempt under section 11 of this chapter, the quarantine, segregation, and inspection of livestock and poultry slaughtered, and of livestock products and poultry products processed or prepared for distribution at all establishments in Indiana.

(2) Require by rules the following:

(A) The identification of livestock and poultry for inspection purposes.

(B) The marking and labeling of livestock products, poultry products, livestock and poultry product containers, or both the product and containers as:

(i) "Indiana Inspected and Passed" if the products are found upon inspection to be not adulterated;

(ii) "Indiana Inspected and Condemned" if the products are found upon inspection to be adulterated; or

(iii) "Not for Sale" if the products are produced under an exemption from inspection.

(C) The destruction for food purposes of all condemned products under the supervision of an inspector.

(3) Prohibit the entry into official establishments of livestock products and poultry products not prepared under federal inspection or inspection under this chapter and further limit

the entry of the products and other materials into official establishments under conditions that the board considers necessary to effectuate the purposes of this chapter.

(4) Require by rules that when livestock products and poultry products leave official establishments, the products bear directly on the products or on the containers, or both, as the board requires, all information necessary to prevent a product from being misbranded, and that all labeling and containers to be used for the products when sold or transported in commerce be approved by the board to ensure that the products comply with this chapter.

(5) Investigate the sanitary conditions of each establishment and withdraw or refuse to provide inspection service at an establishment where the sanitary conditions are such as to make adulterated any livestock products or poultry products prepared or handled at the establishment.

(6) Adopt rules concerning sanitation for all establishments, including custom slaughterers or processors, engaged in the slaughtering of livestock or poultry or preparing meat food products or poultry products capable of use as human food.

(7) Require by rules that the following persons keep records that fully and correctly disclose all transactions involving meat food products and poultry products:

(A) Persons in the business of slaughtering livestock or poultry or preparing, freezing, packaging, labeling, buying, selling (as dealers, wholesalers, or other similar persons), transporting, or storing any livestock products or poultry products for human or animal food.

(B) Persons in business as renderers or in the business of buying, selling, or transporting dead, dying, disabled, or diseased livestock or poultry, or parts of the carcasses of animals, including poultry, that died other than by slaughter.

The board shall adopt rules that require persons described under clauses (A) and (B) to give the state veterinarian access to the places of business, an opportunity at all reasonable times to examine the facilities, inventory, and records, an opportunity to copy the records, and an opportunity to take reasonable samples of the inventory.

(8) If necessary to permit interstate shipment, enter into reciprocal agreements with states adjoining Indiana and the United States Department of Agriculture concerning the inspection of livestock, poultry, and other animals.

Sec. 5. To accomplish the purposes in section 1 of this chapter, the board or state veterinarian may do the following:

(1) Remove inspectors from an establishment that:

(A) fails to destroy condemned products as required under this chapter; or

(B) repeatedly violates this chapter.

(2) Refuse to provide inspection service under this chapter with respect to an establishment for violations of this chapter and causes specified in Section 401 of the Federal Meat Inspection Act or Section 18 of the Federal Poultry Products Inspection Act.

(3) Order labeling and containers to be withheld from use if the state veterinarian determines that the:

(A) labeling is false or misleading; or

(B) containers are unsafe or of a misleading size or form.

(4) Adopt rules, after consultation with the Secretary of Agriculture of the United States, to prescribe the sizes and style of type to be used for labeling information required under this chapter and definitions and standards of identity or composition or standards of fill of container identical with federal standards when the board considers this action appropriate for the protection of the public.

(5) Adopt rules to prescribe conditions of storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing, or transporting the products in commerce to ensure that the products will not be adulterated or misbranded when delivered to the consumer.

(6) Require that equines be slaughtered and prepared in separate establishments from where other livestock are slaughtered or the products of other livestock are prepared.

(7) Adopt rules to require that every person who is engaged in business in commerce as a dealer, a renderer, a manufacturer of food for animals derived from livestock or poultry carcasses, or a wholesaler or public warehouseman of

livestock products or poultry products, or who is engaged in the business of buying, selling, or transporting in commerce dead, dying, disabled, or diseased livestock or poultry or parts of the carcasses of such animals, including poultry, that died other than by slaughter shall register with the board the person's name and the address of each place of business and all trade names under which the person conducts the person's business.

(8) Adopt rules adopting provisions of federal regulations with changes the board considers appropriate to make the regulations applicable to operations and transactions subject to this chapter.

(9) Adopt other rules the board considers necessary for the efficient execution of this chapter, including rules of practice providing an opportunity for a hearing in connection with issuance of rules or orders under this chapter and prescribing procedure for proceedings as provided in IC 4-21.5 and this article. This subdivision and subdivision (8) do not preclude a requirement that a label or container be withheld from use or a requirement for a refusal of inspection under this chapter pending issuance of a final order in a proceeding.

(10) Appoint and prescribe the duties of inspectors and other personnel as the state veterinarian considers necessary for the efficient execution of this chapter.

(11) Cooperate with the Secretary of Agriculture of the United States in the administration of this chapter to effectuate the purposes of this chapter, accept federal assistance for that purpose, and spend state public funds appropriated for the administration of this chapter to pay not more than fifty percent (50%) of the estimated total cost of the cooperative program.

(12) Recommend to the Secretary of Agriculture of the United States for appointment to the advisory committees provided for in the federal acts the officials or employees of the board that the board designates.

(13) Serve at the pleasure of the governor as the representative for consultation with the Secretary of Agriculture of the United States under Section 301(c) of the federal Meat Inspection Act and Section 5(c) of the federal

Poultry Products Inspection Act.

(14) Negotiate agreements with the state or local governmental agencies providing meat inspections as necessary in the opinion of the board to further the provisions provided in this section for the proper administration of this chapter.

Sec. 6. (a) A person may not do the following:

(1) Slaughter livestock or poultry or prepare any meat products or poultry products that are capable of use as human food for commerce, except in compliance with this chapter.

(2) Sell, transport, offer for sale or transportation, or receive for transportation in commerce any meat products or poultry products that are:

(A) capable of use as human food and are adulterated or misbranded; or

(B) required to be inspected under this chapter unless the products have been inspected and passed.

(3) With respect to articles that are capable of use as human food, perform an act:

(A) while the articles are being transported in commerce or held for sale after transportation in commerce; and

(B) that is intended to cause or has the effect of causing the articles to be adulterated or misbranded.

(b) A person may not sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or from an official establishment, slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with rules adopted by the board except as authorized by rule.

Sec. 7. (a) A person may not sell, transport, offer for sale or transportation, or receive for transportation, in commerce, carcasses or parts of carcasses of horses, mules, or other equines or the meat or meat food products of equines, unless the carcasses are plainly and conspicuously marked or labeled or identified as required by rules adopted by the board to show the kinds of animals from which the carcasses were derived.

(b) A person may not buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce,

livestock products or poultry products that are not intended for use as human food unless the products are denatured or identified as required by the rules of the board or are naturally inedible by humans.

(c) A person engaged in the business of buying, selling, or transporting in commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died other than by slaughter, may not buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, dead, dying, disabled, or diseased livestock or poultry or the products of such animals that died other than by slaughter unless the transaction or transportation is made in accordance with rules adopted by the board to ensure that the animals, or the unwholesome parts or products of the animals, will be prevented from being used for human food purposes.

Sec. 8. The board shall adopt rules governing humane methods to make livestock or poultry insensible to pain before incision of an instrument for severance of the carotid arteries. The rules must conform to the extent applicable to the regulations promulgated under the federal Humane Slaughter Act, as amended.

Sec. 9. (a) Before a person may engage in slaughtering livestock or poultry or processing meat or poultry, meat food products, or poultry products for commerce, the person must apply for, and upon compliance with this chapter and the rules adopted under this chapter, shall receive from the state veterinarian, inauguration of inspection service in the establishment where the:

(1) livestock or poultry are to be slaughtered for human consumption; or

(2) meat or poultry, meat food products, or poultry products are processed or manufactured.

(b) The board shall adopt rules governing the granting of inspection to the establishments that trade in commerce.

Sec. 10. (a) An inspection of products placed in a container at an official establishment is not complete until the products are sealed or enclosed in the container under the supervision of an inspector.

(b) For purposes of an inspection of products required by this chapter, inspectors authorized by the state veterinarian shall have access at reasonable times, by day or night, to every part of every establishment required to have inspection under this chapter,

whether or not the establishment is operating.

Sec. 11. (a) The board shall exempt the operations of a person from antemortem inspection and postmortem inspection and other requirements of this chapter if any of the following conditions exist:

(1) To the extent the operations would be exempt from the corresponding requirements under the federal Meat Inspection Act, Section 23 (21 U.S.C. 623), or the Poultry Products Inspection Act, Section 14 (21 U.S.C. 464), if the operations were conducted in or for interstate commerce.

(2) The state is designated under the federal acts as one in which the federal requirements apply to commerce in Indiana.

(b) When the operation of an establishment that is exempt under subsection (a) appears to be a detriment to health and public welfare, the establishment may be brought under this chapter by executive order of the state veterinarian issued in compliance with IC 4-21.5.

(c) Livestock and poultry slaughtered according to the ritual requirements of a religious faith that prescribes a method of slaughter by which the livestock or poultry suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument is a humane method under this chapter. However, livestock must be slaughtered immediately following total suspension from the floor.

(d) Except as required in an agreement between the United States Department of Agriculture and the board, a person operating under the inspection program of the federal acts, as amended, is exempt from this chapter.

Sec. 12. (a) Except as provided in subsection (b), the board is not required to furnish meat or poultry inspection under this chapter:

(1) for more than eight (8) hours in one (1) day;

(2) for more than forty (40) hours in one (1) calendar week; or

(3) on Saturdays, Sundays, or the following legal holidays:

(A) New Year's Day.

(B) Washington's Birthday.

(C) Memorial Day.

(D) Martin Luther King, Jr. Day.

(E) Columbus Day.

(F) Independence Day.

(G) Labor Day.

(H) Veterans Day.

(I) Thanksgiving Day.

(J) Christmas.

(b) If the operator of an establishment under inspection pays to the board an hourly fee for each hour of state meat or poultry inspection furnished:

(1) more than eight (8) hours in one (1) day;

(2) more than forty (40) hours in one (1) calendar week; or

(3) on Saturdays, Sundays, and legal holidays;

the board shall furnish the inspection service.

(c) Subject to the approval of the budget agency, the board shall establish an hourly rate for overtime at an amount sufficient to defray the cost of the inspection service. The establishment shall reimburse the board not later than thirty (30) days after assessment for overtime or legal overtime fees collected under this chapter. The fees must be deposited with the treasurer of state. All overtime fees deposited with the treasurer of state under this subsection are appropriated to the budget agency for allotment to the board for the administration and enforcement of this chapter.

(d) The board may assign inspection personnel to more than one (1) establishment in order to efficiently use board personnel and resources.

Sec. 13. Inspection may not be provided under this chapter at an establishment for the slaughter of livestock or poultry or the preparation of livestock products or poultry products that are not intended for use as human food. However, the articles must, before being offered for sale or transportation in commerce, unless naturally inedible by humans, be denatured or identified as prescribed by rules of the board to deter use for human food.

Sec. 14. (a) After passing the postmortem inspection and upon request by the owner of a bison, farm raised cervidae, or ratitae, an establishment shall immediately upon slaughter return to the owner the head, hide, horns, and hooves.

(b) The board shall conduct field antemortem inspections of bison, farm raised cervidae, and ratitae only if a means of expeditious delivery of the exsanguinated carcass to an establishment is available.

Sec. 15. The board may establish a schedule of fees for inspection services provided under this chapter. The fees must be reasonable but are not required to be equal to the costs of the inspection services.

Sec. 16. (a) A brand manufacturer, printer, or other person may not cast, print, lithograph, or otherwise make:

(1) a device containing an official mark or a simulation of an official mark or a label bearing the mark or simulation; or

(2) any form of official certificate or simulation of an official certificate;

except as authorized by the board.

(b) A person may not do any of the following:

(1) Forge an official device, mark, or certificate.

(2) Use an official device, mark, certificate, or a simulation of an official device, mark, or certificate or alter, detach, deface, or destroy an official device, mark, or certificate without authorization from the board.

(3) Contrary to the rules adopted by the board, fail to use or detach, deface, or destroy an official device, mark, or certificate.

(4) Knowingly possess, without promptly notifying the state veterinarian or the state veterinarian's representative, any of the following:

(A) An official device.

(B) A counterfeit, simulated, forged, or improperly altered official certificate.

(C) A device or label on a carcass of an animal, including poultry, or part or product of a carcass, bearing a counterfeit, simulated, forged, or improperly altered official mark.

(5) Knowingly make a false statement in a shipper's certificate or other nonofficial or official certificate provided for in the rules adopted by the board.

(6) Knowingly represent that an article has been inspected and passed or exempted under this chapter when the article has not been inspected and passed or exempted.

Sec. 17. (a) A person subject to this chapter that has not been approved for inspection may not offer for sale meat or poultry, a meat food product, or a poultry product in commerce in Indiana.

(b) The board may take the following actions for a violation of this section:

(1) Issue an order of compliance under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4.

(2) Levy a civil penalty under IC 4-21.5-3-6.

(3) Both of the actions listed in subdivisions (1) and (2).

(c) The board may, by rules adopted under IC 4-22-2, adopt a schedule of civil penalties that may be levied for violations of this section. A penalty included in the schedule of civil penalties may not exceed one thousand dollars ($1,000) per violation for each day of the violation.

Sec. 18. If an establishment conducts operations that require an inspection for less than eight (8) hours a day, fewer than five (5) days a week, or for a period that is different from a normal Monday through Friday, eight (8) hours per day, five (5) days per week work week, the state veterinarian shall arrange a schedule of slaughter for each establishment so that proper and efficient antemortem inspection and postmortem inspection of livestock or poultry is provided in each establishment while efficiently using inspection resources among the establishments. The schedule must be arranged in conference with the recognized establishments involved.

Sec. 19. (a) For purposes of this section, references in IC 16-42-1 through IC 16-42-4 to:

(1) "state health commissioner" refer to the state veterinarian; and

(2) "department" refer to the board.

(b) An establishment operating under this chapter shall do the following:

(1) Provide information considered necessary by the state veterinarian to enforce this chapter.

(2) Supply samples of ingredients used in the formulation of products.

(3) Supply samples of products manufactured, processed, or prepared in the establishment for laboratory examination or other examination required by the board to ensure that the products comply with this chapter and IC 16-42-1 through IC 16-42-4.

Sec. 20. (a) For purposes of this section, references in IC 16-42-1

through IC 16-42-4 to:

(1) "state health commissioner" refer to the state veterinarian; and

(2) "department" refer to the board.

(b) Whenever:

(1) a:

(A) livestock product;

(B) poultry product;

(C) product exempted from the definition of a livestock product and from the definition of a poultry product; or

(D) dead, dying, disabled, or diseased livestock or poultry;

is found by an authorized representative of the board upon any premises where the product or animal is held for purposes of or during or after distribution in commerce or is subject to this chapter; and

(2) there is reason to believe that:

(A) the product or animal is adulterated or misbranded and is capable of use as human food;

(B) the product or animal has not been inspected in violation of this chapter, IC 16-42-1 through IC 16-42-4, the federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(C) the product or animal has been or is intended to be distributed in violation of a law listed under clause (B);

the product or animal may be detained by the representative for not more than twenty (20) days, pending action under section 21 of this chapter or notification of federal authorities having jurisdiction over the product or animal, and may not be moved by a person from the place at which the product or animal is located when the product or animal is detained until released by the representative.

(c) All official marks may be required by the representative to be removed from the product or animal before the product or animal is released unless it appears to the satisfaction of the state veterinarian that the product or animal is eligible to retain the official marks.

Sec. 21. (a) A livestock product, a poultry product, or dead, dying, disabled, or diseased livestock or poultry:

(1) that is:

(A) being transported in commerce;

(B) subject to this chapter; or

(C) held for sale in Indiana after transportation in commerce; and

(2) that:

(A) is or has been prepared, sold, transported, or distributed or offered or received for distribution in violation of this chapter;

(B) is capable of use as human food and is adulterated or misbranded; or

(C) in any other way is in violation of this chapter;

may be seized and condemned, at any time, on furnishing evidence of a violation of this chapter in any proper court as provided in section 28 of this chapter within whose jurisdiction the article or animal is found.

(b) After entry of a decree condemning an article or animal, the article or animal must be disposed of by destruction or sale, as the court directs.

(c) If the article or animal is sold, the proceeds from the sale, less:

(1) court costs and fees; and

(2) storage and other proper expenses;

must be paid into the state treasury.

(d) The article or animal may not be sold contrary to any of the following:

(1) This chapter.

(2) The federal Meat Inspection Act (21 U.S.C. 601 et seq.).

(3) The federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

(4) The federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

However, upon the execution and delivery of a sufficient agreement conditioned that the article or animal will not be sold or disposed of contrary to this chapter, the article or animal may be delivered to the owner of the article or animal subject to supervision by authorized representatives of the board necessary to ensure compliance with the applicable laws.

(e) When a decree of condemnation is entered against the article

or animal and the article or animal is released under the agreement or destroyed, court costs, fees, storage, and other proper expenses must be awarded against the person, if any, intervening as claimant of the article or animal.

(f) The proceedings in cases for condemnation of an article or animal must conform, as much as possible, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case and all of the proceedings must be at the suit of and in the name of the state of Indiana.

(g) This section does not derogate from authority for condemnation or seizure conferred by this chapter or other laws.

Sec. 22. (a) The state veterinarian may do the following:

(1) Investigate, gather, and compile information concerning the organization, business, conduct, practices, and management of a person engaged in commerce and the relation of the person to other persons.

(2) Require, by general or special orders, that a person engaged in commerce file with the state veterinarian, in a form prescribed by the state veterinarian, annual or special, or both, reports or answers in writing to specific questions. The person shall furnish to the state veterinarian the information required by the state veterinarian concerning the organization, business, conduct, practices, management, and relation to other persons. The reports and answers must be made under oath or affirmation as the state veterinarian prescribes. The reports and answers must be filed with the state veterinarian within a reasonable period prescribed by the state veterinarian, unless the state veterinarian grants additional time.

(b) For purposes of this chapter, the state veterinarian has, at all reasonable times, for the purpose of examination:

(1) access to; and

(2) the right to copy;

any documentary evidence of a person being investigated or proceeded against. The state veterinarian may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of a person relating to a matter under investigation. The state veterinarian may sign subpoenas. The board may sign subpoenas, administer oaths and affirmations,

examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of documentary evidence may be required at a designated place of hearing. In case of disobedience to a subpoena, the state veterinarian or board may invoke the aid of any court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(d) A court may, in case of contumacy or refusal to obey a subpoena issued to a person, issue an order requiring the person to:

(1) appear before the state veterinarian or board;

(2) produce documentary evidence; or

(3) give evidence concerning the matter in question.

A failure to obey an order of the court issued under this subsection may be punished by the court for contempt.

(e) Upon the application of the attorney general at the request of the state veterinarian or board, a court has jurisdiction to issue writs of mandamus commanding a person to comply with this chapter or any order of the state veterinarian or board under this chapter.

(f) The state veterinarian may order testimony to be taken by deposition in a proceeding or investigation pending under this chapter at any stage of the proceeding or investigation. The deposition may be taken before a person who:

(1) is designated by the state veterinarian; and

(2) has power to administer oaths.

The testimony must be reduced to writing by the person taking the deposition or under the person's direction and must be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as a witness may be compelled to appear and testify and produce documentary evidence before the state veterinarian or board.

(g) Witnesses summoned before the state veterinarian or board shall be paid the same fees and mileage that are paid witnesses in Indiana courts. Witnesses whose depositions are taken and the persons taking the depositions are entitled to the same fees paid for similar services in the courts.

Sec. 23. (a) A person may not be excused from attending and testifying or from producing books, papers, schedules of charges,

contracts, agreements, or other documentary evidence:

(1) before the state veterinarian or board, or in obedience to a subpoena of the state veterinarian or board, regardless of whether the subpoena was signed or issued by the state veterinarian, the state veterinarian delegate, or board; or

(2) in a cause or proceeding, criminal or civil, based upon or growing out of an alleged violation of this chapter;

on the ground that the testimony, evidence, documents, or other evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture.

(b) A person may not be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which the person is compelled to testify or produce testimony, evidence, documents, or other evidence after having claimed the person's privilege against self-incrimination. However, a person testifying is not exempt from prosecution and punishment for perjury.

Sec. 24. A person who recklessly, knowingly, or intentionally fails to:

(1) attend and testify;

(2) answer a lawful inquiry; or

(3) produce documentary evidence if in the person's power to do so;

in obedience to a subpoena or lawful requirement of the state veterinarian or board commits a Class A misdemeanor.

Sec. 25. A person who knowingly:

(1) makes a false entry or statement of fact in a report required to be made under this chapter or in any account, record, or memorandum kept by a person subject to this chapter;

(2) fails to make full, true, and correct entries in the accounts, records, or memoranda of all facts and transactions pertaining to the person's business;

(3) removes out of Indiana or damages, alters, or falsifies documentary evidence of a person subject to this chapter; or

(4) refuses to submit to the state veterinarian or board or to the state veterinarian's or board's authorized agent for the purpose of inspection and taking copies of documentary evidence of a person subject to this chapter in the person's

possession or within the person's control;

commits a Class D felony.

Sec. 26. (a) A person who fails to file an annual or a special report as required by this chapter within the time fixed by the state veterinarian for filing the report and for thirty (30) days after notice of default shall forfeit to the state one hundred dollars ($100) for each day of the continuance of the failure beginning thirty-one (31) days after the notice of default. The forfeiture is payable into the state treasury and is recoverable in a civil suit in the name of the state of Indiana brought in the circuit court where the person has the person's principal office or in any county in which the person does business.

(b) The prosecuting attorneys, under the direction of the attorney general, shall prosecute for the recovery of forfeitures. The costs and expenses of prosecution must be paid out of the appropriation for the expenses of the courts.

Sec. 27. (a) If a condition exists in an official establishment that may adversely affect the wholesomeness of meat, poultry, meat food products, or meat byproducts prepared or processed in the official establishment, the state veterinarian may suspend state meat or poultry inspection until the condition is remedied.

(b) After notice and hearing in compliance with IC 4-21.5, the board may revoke state meat and poultry inspection from an official establishment if the person in authority at the establishment repeatedly and persistently fails to comply with this chapter and the rules adopted under this chapter.

Sec. 28. (a) This section applies if, upon inspection of an establishment, the state veterinarian or board finds a condition that meets any of the following conditions:

(1) May affect adversely the wholesomeness of meat, poultry, meat food products, meat byproducts, or poultry products.

(2) Is in violation of this chapter or rules adopted under this chapter.

(b) The state veterinarian or board may do either of the following:

(1) Furnish evidence of the violation to the prosecuting attorney of the judicial circuit in which the violation occurs.

(2) Issue an order to the person in authority at the offending establishment to abate the condition or violation within five

(5) days or other reasonable time required to abate the condition or violation. The proceedings to abate must be in accordance with IC 4-21.5.

Sec. 29. (a) Before a violation of this chapter is reported by the state veterinarian or board to a prosecuting attorney for institution of a criminal proceeding, the person against whom the proceeding is contemplated must be given an opportunity to be heard and may be represented by legal counsel.

(b) The state veterinarian or board shall give the person ten (10) days notice in writing. The notice must do the following:

(1) Specify the charges for the action.

(2) Set the date, time, and place where the hearing is to be held.

(c) The board or the board's designee shall hold the hearing in Indianapolis.

Sec. 30. A person who knowingly and forcibly resists, obstructs, or interferes with another person while the other person is engaged in or on account of the performance of the person's official duties under this chapter commits a Class D felony. However, the offense is a Class C felony if, while committing the offense, the person draws or uses a deadly weapon or inflicts bodily injury on any other person.

Sec. 31. (a) Except as otherwise provided, a person who recklessly violates this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

Chapter 6. Rabies

Sec. 1. (a) When an animal is vaccinated for rabies in Indiana, the veterinarian vaccinating the animal shall:

(1) make and keep a record of the vaccination; and

(2) give one (1) copy of the record to the owner of the animal.

(b) The vaccinated animal must be identified as vaccinated according to rules adopted by the board. The board may adopt additional rules for documenting rabies vaccinations and for the identification of animals that have been vaccinated for rabies.

Sec. 2. (a) The state veterinarian may declare a quarantine against rabies in any county, township, city, or town, or a designated part of any county, township, city, or town whenever the state veterinarian finds that rabies exist in the area to the extent that the health or lives of individuals or domestic animals

are endangered.

(b) If a quarantine has been declared, the owner or caretaker of an animal in the quarantine area shall confine the animal:

(1) on the premises of the owner; or

(2) in a suitable place, subject to the approval of the state veterinarian, for the impounding and care of animals as provided in this chapter.

(c) A quarantine order may specify the circumstances and conditions under which an owner may remove animals from the owner's premises or an impoundment facility.

Sec. 3. (a) If a quarantine has been declared, the state veterinarian may order any animal, species of animal, or group of animals in the quarantined area vaccinated within a period stipulated in the order. The owner of the animal shall pay the cost of the antirabies immunization. However, local health departments or political subdivisions of government may furnish antirabies immunization without charge to owners who are unable to pay for the immunization.

(b) If an order for a rabies vaccination is made, any animal within the quarantined area whose owner refuses to have the owner's animal vaccinated shall be seized and disposed of by the state veterinarian, the state veterinarian's representative, or any person having police power within the quarantined area.

Sec. 4. (a) If the state veterinarian issues an order under section 3 of this chapter:

(1) the state veterinarian shall give notice of the order to the county health officer of the county within which the quarantined area is located; and

(2) the county health officer shall:

(A) publish notice of the order as provided in IC 5-3-1; and

(B) deliver a copy of the order to the sheriff of the county.

(b) The sheriff shall assist in the enforcement of this chapter.

Sec. 5. The board of county commissioners of each county containing an area quarantined under section 2 of this chapter shall furnish a suitable area or quarters:

(1) for the impounding and care of animals that may be impounded under this chapter; and

(2) that comply with the rules adopted by the board.

Sec. 6. If a quarantine has been declared under this chapter, the

state veterinarian shall send an agent or employee into the area to assist the local health officers in the development of a program to control rabies in that area and assist the local law enforcement officers in the enforcement of the quarantine requirements.

Sec. 7. (a) An animal found running at large in violation of a quarantine declared under section 2 of this chapter may be impounded as provided in the quarantine order, in the area or quarters provided by the board of county commissioners. During the quarantine period the owner may obtain possession of the animal by doing all of the following:

(1) Paying the expenses of the animal's board and all tax or license fees that are due and unpaid on the animal.

(2) Having the animal vaccinated and paying for the vaccination or furnishing evidence that the animal was vaccinated during the previous twelve (12) months.

(3) Paying the impounding fee fixed by the board of county commissioners.

(b) An animal not redeemed under subsection (a) shall be disposed of in a manner prescribed by the local health officer having jurisdiction.

Sec. 8. Whenever a quarantine is declared by the state veterinarian under section 2 of this chapter, the expense of operating a pound, including food for animals impounded and expense of personnel, shall be paid from the general fund of the county without appropriation unless there are funds regularly appropriated to operate the pound.

Sec. 9. Whenever a quarantine is declared under section 2 of this chapter, all animals brought into a quarantined area, except for exhibition purposes where animals are confined and not permitted to run at large, are subject to the same requirements as animals already located within the quarantined area.

Sec. 10. (a) A law enforcement officer shall impound or destroy an animal found running at large:

(1) during a quarantine ordered under section 2 of this chapter; or

(2) that is the subject of an order of confinement under section 11 of this chapter.

(b) A law enforcement officer or other authorized individual shall impound an animal that is subject to quarantine or

confinement under this chapter if a statement is provided to the officer or authorized individual that states that the animal has broken quarantine or confinement. The statement must:

(1) be in writing;

(2) be given under oath;

(3) be signed by at least two (2) individuals; and

(4) include the name and address of the owner or suspected owner of the animal, if known.

(c) When possible, the authorized individual or agency contacted under this section shall give written notice to the owner or suspected owner of the animal upon impounding and before destroying the animal.

(d) All costs incurred by a local government relating to the impoundment of an animal under subsection (b) shall be paid by the owner of the animal.

Sec. 11. (a) If an order has not been issued under section 2 of this chapter, the state veterinarian, the local health officer having jurisdiction, or an individual designated by the state veterinarian or the local health officer having jurisdiction may do the following:

(1) Order the confinement and destruction of an animal showing clinical symptoms of rabies for laboratory diagnosis.

(2) Order the confinement of an animal suspected of having rabies.

(3) Order the confinement of an animal that has potentially exposed an individual to rabies.

(4) Order the confinement and destruction of an animal that has potentially exposed an individual to rabies.

(b) Whenever possible, the state veterinarian or local health officer exercising authority under this section shall give written notice to the owner or suspected owner of an animal:

(1) upon impounding; and

(2) before destroying;

the animal.

(c) The period of confinement ordered under subsection (a) must be:

(1) of at least ten (10) days duration;

(2) under the supervision of:

(A) the state veterinarian; or

(B) a licensed accredited veterinarian or a person

designated by the official exercising authority under this chapter; and

(3) at the expense of the owner.

(d) Any animal that has been bitten by a domestic or feral animal suspected or known to have rabies may be:

(1) confined for not more than twelve (12) months at the owner's expense; or

(2) destroyed.

(e) Whenever informed that an animal subject to an order of quarantine or an order of destruction or confinement under subsection (a) is running at large, the official who issued the order or the official's designee shall investigate the status of the animal. If the investigating official is given a statement that complies with section 10(b) of this chapter, the investigating official may order the animal impounded and, if necessary, provide the statement to a law enforcement officer for action under section 10 of this chapter.

Sec. 12. (a) For purposes of IC 4-21.5, an order issued under this chapter is an emergency order.

(b) Notwithstanding IC 4-21.5-4-5(a)(3), an emergency order issued under this chapter does not expire.

Sec. 13. The state department of health and the local health officers shall cooperate with the state veterinarian in the rabies control program.

Sec. 14. This chapter may not be construed as repealing or prohibiting municipal ordinances on rabies control or divesting municipalities of existing rights or powers related to rabies control that are not in conflict with this chapter.

Chapter 7. Bovine Tuberculosis

Sec. 1. (a) If the board determines that the cattle within an accredited county must be tested for bovine tuberculosis to conform with federal regulations governing the reaccreditation of the county, the county council shall appropriate a sufficient amount of money to perform the testing. The board shall determine the amount of the appropriation based on the most reliable source of information.

(b) The appropriation under subsection (a) must reflect the number of cattle within the county, but may not exceed a tax levy of seventy-five ten-thousandths (0.0075) per dollar of assessed

valuation.

(c) The board, before July 1 of the year in which the appropriation under subsection (a) is made, shall notify the county auditor to include the appropriation in the county budget for the year in which the testing of cattle for reaccreditation purposes will be done.

(d) If the funds appropriated by the county council under this section are insufficient to complete the testing or any necessary retesting, the board shall provide from its appropriation additional funds as needed to carry out the testing program.

Sec. 2. (a) After a county council makes an appropriation under section 1 of this chapter, the commissioners of the county shall enter into a contract with the board concerning the testing in the county required under section 1 of this chapter and the expenses paid by the county.

(b) The board shall prescribe a standard contract for all counties concerning expenditures for incidental items and the employment of veterinary inspectors.

Sec. 3. (a) A sufficient number of veterinary inspectors must be employed to meet the requirements of this chapter.

(b) A veterinary inspector must:

(1) satisfy the qualifications set forth in IC 25-38.1; and

(2) be licensed or eligible for licensure to practice in Indiana and accredited by the United States Department of Agriculture to do tuberculin testing.

(c) The board shall supervise and control the veterinary inspectors.

Sec. 4. (a) The board shall determine the salaries of full-time and part-time veterinary inspectors.

(b) In addition to the salary determined under subsection (a), a full-time veterinary inspector is entitled to reimbursement of necessary expenses incurred in performing official duties.

(c) Each month, a veterinary inspector shall file with the auditor of the county in which the veterinary inspector is employed a sworn statement of the following:

(1) The number of days during the month that the veterinary inspector performed official duties.

(2) The amount of necessary expenses the veterinary inspector incurred in the performance of official duties.

(d) The county auditor shall submit a claim based on the statement filed under subsection (c) to the board of county commissioners for approval. Upon approval, the county auditor shall draw a warrant on the county treasurer in the amount approved by the board of county commissioners. The county treasurer shall pay the warrant.

Sec. 5. (a) Cattle, goats, and cervids that react positively to a tuberculin test must be marked immediately using a method of identification approved by the board.

(b) All animals marked under this section shall be appraised by an authorized agent of the board or the United States Department of Agriculture.

(c) An identification mark on reactor cattle may not be tampered with or altered.

Sec. 6. (a) Cattle, goats, and cervids that react positively to a tuberculin test are condemned and designated for:

(1) further testing at a laboratory approved by the board; or

(2) slaughter;

not more than fifteen (15) days after appraisal under section 5 of this chapter.

(b) Animals designated for slaughter under subsection (a)(2) shall be slaughtered at an establishment that is:

(1) subject to federal or state inspection; and

(2) under the direction of an inspector employed by the United States Department of Agriculture or the board.

Sec. 7. (a) Owners of cattle, goats, or cervids that are destroyed because they have:

(1) reacted positively to a tuberculin test administered by:

(A) the state veterinarian or the state veterinarian's agent; or

(B) an agent of the United States Department of Agriculture; or

(2) been exposed to tubercular animals;

are entitled to be indemnified for the cattle, goats, or cervids under the rules of the board and the United States Department of Agriculture, as applicable.

(b) Indemnification by the state may not exceed the per animal limit set in the rules of the board.

(c) Joint federal-state indemnity, plus salvage, may not exceed

the appraised value of each animal.

(d) State indemnity may not exceed federal indemnity on each animal.

Sec. 8. A herd of:

(1) cattle;

(2) goats; or

(3) cervids;

in which any animal reacts positively to a tuberculin test is under quarantine.

Chapter 8. Bovine Brucellosis

Sec. 1. (a) If the board requires a testing program in which cattle within a certified county are tested for bovine brucellosis to conform with rules governing the recertification of a county, the county council shall appropriate a sufficient amount of money to conduct the testing program. The board shall determine the amount of the appropriation based on the most reliable source of information.

(b) The appropriation under subsection (a) must reflect the number of cattle within a county, but may not exceed a tax levy of seventy-five ten-thousandths (0.0075) per dollar of assessed valuation.

(c) Not later than July 1 of the year in which the appropriation under subsection (a) is made, the board shall notify the county auditor to include the appropriation in the county budget for the year in which the testing of cattle for recertification purposes will be done.

Sec. 2. (a) After a county council makes an appropriation to conduct a testing program under this chapter, the board of county commissioners of the county shall enter into a contract with the board concerning the work to be done in the county and the expenses paid by the county.

(b) The board shall prescribe a standard contract for all counties concerning expenditures for incidental items and the employment of veterinary inspectors.

Sec. 3. (a) A sufficient number of veterinarians shall be employed to meet the requirements of this chapter. The veterinarians must:

(1) satisfy the requirements for an applicant to practice veterinary medicine set forth under IC 25-38.1;

(2) be licensed to practice in Indiana; and

(3) be accredited by the United States Department of Agriculture.

(b) The board shall supervise the veterinarians employed under this chapter.

Sec. 4. Upon receipt of a budgetary request under this chapter, the county council shall appropriate a sufficient amount of money to conduct the testing program.

Sec. 5. After the county council makes an appropriation under section 4 of this chapter, the board of county commissioners shall contract with the board to cover the expenditures involved in the testing program, including funds to assist the board in the employment of inspectors and quarantine officers and the necessary expenses incurred in carrying out the testing program.

Sec. 6. If:

(1) a county council appropriates money for a testing program; and

(2) the testing program begins in the year of the appropriation;

the county council shall annually appropriate money to continue the program until the incidence of brucellosis in cattle has been reduced in accordance with rules and federal regulations.

Sec. 7. Any unused part of an appropriation under this chapter is available for use in the following year.

Sec. 8. The county council of a county that is certified as a modified-certified brucellosis area shall continue to appropriate sufficient funds to maintain the county upon a certified basis as required by state and federal laws.

Sec. 9. After a program for the control and eradication of brucellosis has begun in a county, each cattle owner in the county shall:

(1) comply with all existing rules and federal regulations to maintain the county's certification;

(2) upon notice by a representative of a local, state, or federal cooperating agency, confine the owner's cattle in suitable quarters for testing; and

(3) render reasonable assistance in testing.

Sec. 10. Each herd in which brucellosis infection is revealed shall be placed under quarantine by the board until:

(1) all cattle that react positively to a bovine brucellosis test have been sold for slaughter; and

(2) the remainder of the herd tests negative for brucellosis under the rules of the board.

Sec. 11. All necessary expenses for carrying out the program under this chapter shall be paid equally by the state and the county. However, any federal funds that are available for the program shall be used, and the expenses paid by the state and county shall be reduced pro rata.

Sec. 12. All cattle that:

(1) react positively to a brucellosis test; or

(2) are officially vaccinated;

shall be permanently identified as prescribed by the board.

Sec. 13. Persons required by the board shall send complete reports of:

(1) tests for brucellosis; and

(2) calfhood vaccination;

to the state veterinarian and as otherwise required by the board not more than seven (7) days after the completion of testing or vaccination.

Chapter 9. Swine Brucellosis

Sec. 1. (a) This section applies to swine that are:

(1) moved into Indiana; or

(2) sold in a public or private sale in Indiana.

(b) The board may adopt rules that require that swine must be accompanied by:

(1) an official certificate of veterinary inspection; or

(2) a sanction on a form prescribed by the board showing that the swine have been:

(A) tested for diseases; and

(B) found to be negative;

under rule of the board before the date of sale.

Sec. 2. Copies of the official certificate of veterinary inspection shall be issued and distributed as prescribed by the board.

Sec. 3. (a) Tests required under this chapter must be conducted by a veterinarian who is:

(1) licensed or legally able to practice in Indiana; and

(2) accredited by the United States Department of Agriculture.

The form on which the test results are reported must include the veterinarian's name.

(b) Tests required under this chapter must be conducted by:

(1) either:

(A) the animal disease diagnostic laboratory at Purdue University; or

(B) a laboratory designated or established by the board; or

(2) in the case of swine imported from another state, a state federally approved laboratory.

Chapter 10. Dangerous and Diseased Animals

Sec. 1. (a) The owner of an animal affected with a dangerous or contagious disease shall report the disease to the state veterinarian not later than forty-eight (48) hours after discovering the existence of the disease.

(b) A person who is not the owner of an animal who knows or has reason to suspect that a dangerous, contagious, or infectious disease exists among animals shall report the existence of disease to the state veterinarian or local health officer not later than forty-eight (48) hours after discovering the disease exists.

(c) A local health officer who receives a report from a person under this section shall report the disease within twenty-four (24) hours to the state veterinarian.

Sec. 2. An owner or a caretaker of an animal and the owner's or a caretaker's agents shall provide reasonable assistance that is required to enable the state veterinarian, the state veterinarian's authorized agent, or an agent of the United States Department of Agriculture to perform the state veterinarian's or agent's duties.

Sec. 3. The state veterinarian or the state veterinarian's agent shall make an examination of animals and objects suspected to be dangerous or diseased and shall enforce related laws, rules, and orders.

Sec. 4. An agent of the United States Department of Agriculture may do the following:

(1) Inspect, test, quarantine, and condemn animals and objects in Indiana that are affected with any disease or pest of animals, are suspected to be affected, or may have been exposed to any disease or pest of animals.

(2) Enter the grounds or premises to carry out the duties under subdivision (1).

(3) Request that a law enforcement officer provide assistance in discharging the duties under subdivision (1). A law enforcement officer shall assist an agent when requested. An agent has the same power and protection as a law enforcement officer when engaged in the discharge of the agent's duties. However, the state is not liable for any damages or expenses caused or made by an agent.

Sec. 5. If the governor has good reason to believe that:

(1) any disease or pest of animals has been discovered; and

(2) the importation of animals or objects from another state, or the movement of animals or objects within Indiana, would be injurious to the health of the citizens or the animals of Indiana;

the governor may, on the recommendation of the board, issue a proclamation to prohibit the entry into or other movement within Indiana of animals and objects or stipulate the conditions under which animals and objects may enter or move within Indiana.

Sec. 6. (a) Except as provided in subsection (b), the owner of any animal or object condemned by the board shall be indemnified as provided in this article and regulations governing the payment of indemnity by the state or by the state in cooperation with the federal government. The length of time that a condemned animal has been in Indiana may not be considered when determining the payment of indemnity. The board or the board's agent shall determine indemnity amounts based on appraisals or other determinations of value made according to:

(1) rules and policies adopted by the board; or

(2) laws and policies of the federal government;

that govern indemnity payments.

(b) The board is not required to indemnify objects that are adulterated, misbranded, or condemned under IC 15-17-5, IC 15-18-1, or IC 16-42.

(c) The board may pay the cost of transporting, testing, treating, euthanizing, destroying, and disposing of infected, exposed, or suspect animals and objects.

(d) The board may pay the cost of cleaning and disinfecting for purposes allowed under this article.

Sec. 7. (a) Except as provided in subsection (b), an indemnity payment may not be made for the following:

(1) Animals or objects belonging to the United States.

(2) Animals or objects belonging to the state.

(3) Animals or objects brought into the state or moved in violation of this article, the rules of the board, or an agreement for the control of diseases or pests.

(4) Animals that were previously affected by any other disease or pest, which, from its nature and development, caused an incurable condition and was necessarily fatal.

(5) Animals or objects affected with disease or pest of animals that the owner purchased, knowing that the animals or objects were infected with or exposed to a disease or pest of animals, including animals or objects purchased from a place where a contagious disease or pest of animals was known to exist.

(6) Any animal or object that the owner or the owner's agent intentionally infects with or exposes to a disease or pest of animals.

(7) Any animal or object for which the owner received indemnity or reimbursement from any other source.

(b) The board may pay indemnity for animals or objects described in subsection (a)(3) through (a)(5) if the board finds that payment of indemnity is necessary to accomplish the purposes of this article.

Sec. 8. (a) The board or the board's agent may condemn and control the disposition of any animal or object infected with or exposed to, or suspected to be infected with or exposed to, foot and mouth disease, glanders, or other diseases or pests of animals that, in the opinion of the board, are a health hazard to the livestock industry, other animals, or the citizens of Indiana.

(b) Objects infected with, exposed to, or suspected to be infected with or exposed to a disease or pests of animals described in subsection (a) may be condemned and shall be destroyed or disposed of in a manner as directed by the board.

Sec. 9. If the board determines that a disease or pest of animals presents a health hazard to the citizens or animals of Indiana, the following action may be taken:

(1) The board may adopt emergency rules under IC 4-22-2-37.1 that facilitate the prevention, detection, control, and eradication of the disease or pest of animals,

including the following to:

(A) Prohibit or impose conditions on importing animals and objects into Indiana.

(B) Require testing of animals and objects.

(C) Require vaccination or other treatment of animals and objects.

(D) Prohibit or impose conditions on moving animals and objects within Indiana.

(E) Govern the disposition of animals and objects.

(F) Impose other measures governing animals and objects to protect the citizens and animals of Indiana from diseases and pests of animals.

(2) The state veterinarian may issue emergency orders under IC 4-21.5-4 governing animals and objects in order to protect the citizens and animals of the state from diseases and pests of animals.

Sec. 10. If the board determines that a disease or pest of animals has or is imminently likely to result in a large number of dead animals, the board may facilitate the prompt disposal of the dead animals by adopting an emergency rule under IC 4-22-2-37.1 that amends or suspends any of the following:

(1) IC 15-17-11.

(2) A rule adopted by the board that governs the disposal of dead animals.

Sec. 11. If the board determines that a disease or pest of animals presents a hazard to the citizens or animals of Indiana, the board may:

(1) use funds appropriated to the board by the general assembly for indemnity or any other purpose; and

(2) submit to the budget agency a request for additional funds under IC 4-12-1-15 or any other prescribed procedure and use any funds received;

to address the hazard.

Sec. 12. The board may purchase an animal or object to prevent, detect, control, and eradicate diseases and pests of animals.

Sec. 13. The board shall prescribe and furnish upon request all forms to be used in conjunction with applications and reports required under this article.

Sec. 14. All money received by the state veterinarian under this

chapter shall be reported to the auditor of state at the end of each month or at another time prescribed by law, and at the same time the state veterinarian shall deposit the entire amount of the receipts with the treasurer of state for deposit in the state general fund.

Sec. 15. The Indiana State Poultry Association is designated as the official state agency to cooperate with the United States Department of Agriculture and the board in administering the national poultry improvement plan.

Sec. 16. A person may not feed or permit the feeding of garbage to swine, except for rendered products.

Chapter 11. Disposal of Dead Animals

Sec. 1. This chapter does not apply to or affect the following:

(1) Any person:

(A) slaughtering, butchering, manufacturing, or selling in any manner any animal flesh or products, or any poultry flesh or poultry products, where the animals or poultry are killed for the sole purpose of being used for human consumption;

(B) engaged in transporting and disposing of the bodies of the animals killed for human consumption; or

(C) engaged in the transportation and disposing of poultry or of any parts or products of animals or poultry to any person solely for human consumption.

(2) Any person transporting, disposing of, or selling the hides or skins of animals or tanning the hides or skins for the person's own use or the use of other persons, if the person does not engage in any other byproducts operation.

(3) Any bodies of dead fish, reptiles, or small animals of any kind, including dogs, cats, and small game.

(4) Any governmental agency collecting, transporting, or disposing of the bodies of dead animals or poultry in any manner.

(5) Any person collecting, transporting, or disposing of dead animals or poultry in any manner for educational or research purposes under a permit and approval of the board.

(6) Any livestock owner transporting the owner's dead livestock to a rendering plant or to a diagnostic facility.

Sec. 2. A person may not do the following:

(1) Engage in the business of operating a disposal plant without first obtaining a license for each disposal plant operated and any vehicle certificates required by this chapter.

(2) Transport over the roads the body of a dead animal not slaughtered for human food unless the person:

(A) holds a license to operate a disposal plant or collection service in Indiana or is acting for a licensee; or

(B) is exempt under this article.

Sec. 3. To obtain a license required under this chapter, a person must file an application for the license with the state veterinarian. The application must include the following information:

(1) The name and address of the applicant.

(2) The location of the place of business.

(3) The number and location of all substations.

(4) The number and kind of vehicles to be used.

(5) Any other information required under this article or by rules adopted by the board.

The application must be accompanied by the license fees required under this chapter.

Sec. 4. (a) On receipt of an application for a license under this chapter, the state veterinarian or a designee of the state veterinarian shall:

(1) inspect the disposal plant and the locality where the applicant is conducting or proposes to conduct business; and

(2) determine whether the applicant has fulfilled and complied with this chapter and the rules relating to the business.

(b) An inspection under this section must be conducted not later than thirty (30) days after the application is received by the state veterinarian.

Sec. 5. (a) A license issued under this chapter is valid until:

(1) a licensee voluntarily surrenders a license;

(2) the board suspends or revokes the license, as provided in this chapter; or

(3) the license period expires, as determined by the board under IC 15-17-16-3.

(b) The board may adopt rules to implement this chapter, including the following:

(1) Procedures for issuing, suspending, revoking, and updating licenses and certificates.

(2) Requiring annual or other regular reports from licensees to:

(A) determine the vehicle certificates required;

(B) determine the current status of facilities and equipment licensed under this chapter; or

(C) update other information used to administer this chapter.

Sec. 6. (a) If an applicant for a disposal plant license complies with this chapter and any rules adopted under this chapter, the state veterinarian shall issue a disposal plant license to the applicant and a transport vehicle license certificate for each transport vehicle listed in the license application.

(b) A truck or trailer that is to be used as a transport vehicle must bear a license certificate issued by the state veterinarian.

(c) A transport vehicle license issued under this section entitles the licensee to operate a transport vehicle in Indiana.

Sec. 7. Subject to section 8 of this chapter, the fees for licenses issued under this chapter are as follows:

(1) The base license fee for each disposal plant, including transport vehicle certificates, is one hundred fifty dollars ($150).

(2) The license fee for each substation is twenty dollars ($20).

(3) The collection service license fee, including transport vehicle certificates, is one hundred fifty dollars ($150).

Sec. 8. The full amount of the fees specified in section 7 of this chapter must be paid for licenses and transport vehicle certificates issued before one-half (1/2) of the license period has expired. However, one-half (1/2) of the fee must be paid for licenses and certificates issued after at least one-half (1/2) of the license period has expired.

Sec. 9. If an applicant under this chapter is refused a license, the applicant's fees may not be refunded but must be deposited into the state general fund.

Sec. 10. (a) If the state veterinarian determines that an applicant for a disposal plant license has not complied with this chapter and the rules adopted under this chapter, the state veterinarian shall promptly mail the applicant the state veterinarian's written specific findings. The applicant may request in writing delivered to the state veterinarian a reinspection or reconsideration of the state

veterinarian's findings. The state veterinarian shall not later than ten (10) days after the applicant's request make a similar second inspection, but is not required to make more than two (2) inspections of the same plant under one (1) application and the original payment of fees. However, the state veterinarian may make more than two (2) inspections if circumstances warrant additional inspections.

(b) If an application for a disposal plant license is denied, the applicant may reapply for a license by following the appropriate procedures and paying the required fees.

Sec. 11. (a) A person desiring to construct a new disposal plant or reconstruct and reopen a disposal plant previously closed must submit to the state veterinarian a written request for a permit that includes the following information:

(1) A general statement of the applicant's proposed plan.

(2) The method of operating the business and disposal plant.

(3) Proof the disposal plant is located or will continue to be located at a site allowed by this chapter.

(4) Any other information required by the state veterinarian.

(b) In addition to the information required under subsection (a), the state veterinarian may require the applicant to submit detailed plans and specifications for the proposed disposal plant. The state veterinarian may submit the plans, specifications, and other information to any:

(1) qualified architects and engineers employed in any department of the state government; or

(2) qualified person not employed by the state;

to obtain advice concerning the proposed plant's compliance with this chapter and any rules adopted under this chapter.

Sec. 12. (a) If the state veterinarian finds that an applicant under section 11 of this chapter has complied with all of the relevant requirements of this article and any rules adopted under this article, the state veterinarian shall issue a permit to construct or reconstruct the disposal plant.

(b) After the disposal plant is completed and before it begins operations, the applicant shall notify the state veterinarian. After receiving notification, the state veterinarian shall:

(1) make the inspections that are required for an existing, established plant;

(2) use the procedures established for inspections and issuance of licenses;

(3) require the applicant to pay the license fees and any additional required fees;

(4) issue or deny the disposal plant's license; and

(5) comply with and require the applicant to comply with this chapter.

For each subsequent year, the annual license and other fees must be the same as for similar existing licensed plants.

Sec. 13. A:

(1) new disposal plant may not be located or constructed; and

(2) discontinued plant may not be reconstructed or reopened;

at any place where the location and operation of that plant is prohibited by law or ordinance.

Sec. 14. (a) This section does not apply to a disposal plant destroyed during a war.

(b) If:

(1) at least two-thirds (2/3) of the operating part of the disposal plant is destroyed; and

(2) the disposal plant is located on a site where constructing a new disposal plant under section 13 of this chapter would be prohibited;

the disposal plant may not be reconstructed and the site may not be used again for a disposal plant.

Sec. 15. Except as provided in this chapter, a person may not haul or transport over the highways the bodies of any dead animals, except those that have been slaughtered and are intended for human food, unless:

(1) the person has a valid disposal plant or collection service license issued under this chapter; and

(2) the bodies are being transported to a licensed disposal plant.

Sec. 16. (a) A license may not be issued to a person for the sole purpose of transporting the bodies of dead animals unless the person meets the requirements for a collection service under this chapter.

(b) A public official with a legal duty to protect the public health and welfare may remove or supervise the removal of the dead bodies of animals and the disposal of the dead bodies by any

method provided for by this chapter.

Sec. 17. A transport vehicle must be constructed:

(1) in a manner that is practically watertight so that drippings or seepage from dead bodies does not escape from the vehicles if the drippings or seepage can be prevented;

(2) with an endgate designed to prevent drippings and seepage from escaping from the vehicle while transporting dead bodies; and

(3) in a manner that completely conceals the dead bodies in the transport vehicle from view of persons using the highways and any public nuisance is prevented during transport.

Sec. 18. After the bodies of dead animals have been unloaded from a transport vehicle, the transport vehicle and all parts of the transport vehicle must be thoroughly:

(1) washed out with steam or hot water; and

(2) cleansed and disinfected in a manner and with a solution as the state veterinarian may prescribe by rule.

Sec. 19. (a) If a transport vehicle is loaded with the body of an animal that has died of a disease, the vehicle must be driven directly to the place of disposal or to a substation maintained for the temporary storage of the animal body. However, the vehicle may stop along the highway to load other dead animal bodies.

(b) A driver of a transport vehicle may not do the following:

(1) Drive a transport vehicle upon the premises of any person unless the driver obtains the permission of the other person.

(2) Create a nuisance during the transportation of dead animal bodies.

(c) If any drippings or seepage escapes from a transport vehicle, the driver shall clean up the drippings or seepage and correct the escape, if possible to do so.

Sec. 20. (a) A person who owns or cares for an animal that has died from any cause shall dispose of the animal's body not later than twenty-four (24) hours after knowledge of death so as not to produce a nuisance. Subject to subsection (b), the disposal of the animal's body must be by one (1) of the following methods:

(1) At an approved disposal plant.

(2) Burial upon the owner's premises to such a depth that every part of the animal's body is at least four (4) feet below the natural surface of the ground and every part of the

animal's body is covered with at least four (4) feet of earth in addition to any other material that may be used as cover.

(3) Thorough and complete incineration according to standards established by an appropriate governmental agency.

(4) Composting according to standards approved by the board.

(b) The board may adopt rules to allow alternate methods for the safe, orderly, and efficient disposal of dead animals.

(c) The board may adopt rules and issue orders restricting the use of the disposal methods described in subsection (a) to control disease.

Sec. 21. A person who owns or controls a dead animal that has not died of a contagious disease may remove the hide or skin of the animal on the person's own premises before burying the body as required under this chapter. However, the skinning and disposition of the hide, skin, and body must be made in a manner that will avoid the creation of a nuisance.

Sec. 22. A person may not bury the body of any animal within the corporate limits of a city or town if the burial is prohibited by law or ordinance.

Sec. 23. (a) A disposal plant is not considered a suitable or sanitary place for disposing of the bodies of dead animals by any process of cooking unless it conforms to the following minimum specifications:

(1) The building must have four (4) walls complete and be provided with concrete or cement floors and be thoroughly sanitary in construction and maintenance. Any sewage, drainage, or waste water of any kind that has an offensive or obnoxious character or odor, is detrimental to human, animal, agricultural, or aquatic life, or may constitute a public nuisance must be discharged into a public sewer. If a public sewer is not available, the sewage, drainage, or waste water must be disposed of according to the requirements of water pollution control laws (as defined in IC 13-11-2-261).

(2) All disposal plants where a rendering process is conducted must be properly equipped, operated, and designed to:

(A) minimize the escape of vapors during processing; and

(B) expose the material being processed to conditions that

will kill all pathogenic organisms.

The board may adopt rules specifying conditions that a rendering process must meet in order to protect the public health.

(3) If the owner or operator of a disposal plant wishes to sell any part or parts of any animal carcasses taken to the owner's or operator's disposal plant for use in the manufacture of pet food or for feeding mink and other animals, the disposal plant must have a separate room where the animal bodies that are considered suitable for animal food are taken. The processing and boning of carcasses must be done promptly, and the boned meat shall be ground or cut into small pieces not more than four (4) inches in diameter. While the meat is being ground or cut, a sufficient quantity of dye, charcoal, malodorous fish oil, or other denaturant approved by the state veterinarian must be applied to unequivocally preclude the meat's use in human food. Meat that is not immediately shipped must be refrigerated in a cooler storage room that prevents decomposition. Meat, before being shipped from a disposal plant, must be packed in a container approved by the state veterinarian. The container must be clearly marked or stamped with the legend "Unfit for Human Consumption". Lettering used in the legend must be at least as large as any other lettering on the container, and not smaller than one-half (1/2) inch in height or less than one-half (1/2) inch in width. The meat may be hauled to the plant of a manufacturer of pet food or to the place of feeding to animals at places approved by the state veterinarian. If, after the skinning and dismemberment of an animal body it is determined that the body is not suitable for pet food or animal feeding, the body must be taken to the processing area of the disposal plant and processed in the same manner as other animal bodies.

(4) The skinning and dismembering of bodies must be done within the disposal plant and in a manner that prevents unnecessary annoyance to other persons caused by the conditions or unsightly appearance of the bodies or any parts and contents of the bodies. All animal material transported to a disposal plant for disposal, except that disposed of under subdivision (3), must be disposed of within twenty-four (24)

hours after delivery to the disposal plant, by a method allowed under this chapter, except where rendered impossible by accident or other casualty preventing the operation of the disposal plant, or where an epidemic or act of God has caused more bodies to be accumulated than can be reasonably disposed of within twenty-four (24) hours by the continuous operation of the plant, in which case the plant shall be placed in operation as soon as possible and operated continuously until all bodies are disposed of.

(b) A disposal plant may not be situated, constructed, maintained, or operated in a manner that creates or unnecessarily continues a public nuisance.

Sec. 24. (a) A disposal plant must maintain the following complete and accurate records concerning the disposal plant's nonedible meats:

(1) The amount denatured.

(2) The amount sold.

(3) To whom the meat was sold.

(4) The address of the consignee.

(5) How and by whom the meat was hauled.

(b) The records under subsection (a) must be open for inspection during the disposal plant's normal working hours to the state veterinarian, the commissioner of the state department of health, or the state veterinarian's or commissioner's agent.

Sec. 25. (a) Nonedible meat may be sold when properly decharacterized for shipment to a plant producing pet food or to a person for use in feeding mink and other animals as allowed by the state veterinarian.

(b) A disposal plant may not sell nonedible meats until after the following conditions have been met:

(1) The disposal plant has applied to the state veterinarian for a permit to sell nonedible meats.

(2) The state veterinarian has:

(A) inspected the disposal plant;

(B) determined that the disposal plant is adequate to process and handle nonedible meats; and

(C) issued to the disposal plant a permit to sell nonedible meat.

(c) An additional fee may not be charged for a permit issued

under this section.

Sec. 26. (a) A person that does not operate a disposal plant licensed under this chapter may not operate a business to transport:

(1) dead animals;

(2) nonedible byproducts from the slaughtering of animals, including poultry; or

(3) restaurant grease;

for delivery to a disposal plant unless the person has a collection service license.

(b) A person desiring a collection service license must submit an application to the state veterinarian with payment of the license fee required under this chapter.

Sec. 27. (a) The owner or operator of a disposal plant in a state other than Indiana may apply to the state veterinarian for a collection service license as required by section 26 of this chapter.

(b) The collection service license application must include the following:

(1) The name of the applicant.

(2) The location of any proposed substation in Indiana to be used as a concentration site for the temporary deposit or storage of rendering materials pending final delivery to a disposal plant.

(3) The location of the applicant's disposal plant outside Indiana.

(4) The number and kind of vehicles that will be operated in Indiana.

(5) Other essential information required by rules adopted by the board.

(6) The license fee required under this chapter.

Sec. 28. The state veterinarian shall determine if an applicant for a collection service license meets the requirements for a collection service license within ninety (90) days after an application is filed.

Sec. 29. (a) If an applicant's application to operate a collection service under section 26 of this chapter does not comply with this chapter, the state veterinarian shall notify the applicant that the applicant's application does not comply with the requirements of this chapter and specifically indicate why the application does not

comply. An application that does not comply with this chapter must be placed on hold for not more than sixty (60) days during which time the applicant may provide additional information showing the deficiencies have been corrected.

(b) After notification by the applicant that the deficiencies have been corrected, the state veterinarian shall promptly determine if the applicant is entitled to a license.

(c) If the state veterinarian again determines the applicant is not entitled to a license, the state veterinarian may deny the request for a license. If an application is denied, an applicant may reapply by submitting the information and fees required under this chapter.

Sec. 30. An application for a collection service license must include the fees required under section 7 of this chapter for a collections service license, including the appropriate fees for vehicle certificates and substations.

Sec. 31. A transport vehicle used by a collection service must meet the requirements for transport vehicles under this chapter.

Sec. 32. A substation maintained by a licensee under this chapter must meet the requirements under section 23(a) of this chapter.

Sec. 33. (a) The state veterinarian or the state veterinarian's authorized agent:

(1) shall inspect each plant and substation licensed under this chapter at least once each year; and

(2) may inspect plants and substations as often as is necessary to ensure compliance with this chapter.

(b) The state veterinarian shall enforce compliance with this chapter and the rules adopted under this chapter.

Sec. 34. (a) The state veterinarian may suspend or revoke a license issued under this chapter after receiving written certification of specific charges from the state department of health that allege:

(1) a particular disposal plant;

(2) the operation of a particular disposal plant; or

(3) the operator of a byproducts collection service;

is a menace to the public health.

(b) If a hearing on the license suspension or revocation is requested under this section, the hearing must be held not later than thirty (30) days after the charges of the state department of

health are filed.

Chapter 12. Biological Products

Sec. 1. (a) A person may not use, offer for sale or exchange, or distribute any substance for the prevention or treatment of a contagious or infectious disease that:

(1) contains living germs in a virulent or attenuated state; and

(2) may at any time cause an outbreak of a contagious or infectious disease;

unless the person has submitted a notice to the state veterinarian describing the substance. The state veterinarian may require that a sample of the substance be submitted to the state veterinarian for examination.

(b) The state veterinarian may forbid the use of a substance that in the state veterinarian's judgment:

(1) jeopardizes the health of domestic animals; or

(2) causes the masking of a diagnosis of a contagious or infectious disease.

Sec. 2. (a) A person may not manufacture, sell, offer for sale, or distribute within Indiana a biological product for use on an animal unless the biological product is produced at an establishment that is:

(1) licensed by the United States Department of Agriculture, as provided in 21 U.S.C. 151 through 21 U.S.C. 158, as amended; or

(2) located in Indiana and approved by and issued permits by the board.

(b) The permitee shall pay the expenses related to the required tests for biological products approved under this section.

Sec. 3. A serum, virus, vaccine, or other remedy may not be produced at an establishment that is within four thousand (4,000) feet from any of the following:

(1) A public stockyard where a public livestock market is maintained.

(2) A garbage disposal or rendering plant where garbage or dead animals are hauled over a public street or highway.

Sec. 4. (a) Only vaccines produced at establishments:

(1) licensed under the federal Virus-Serum-Toxin Act (21 U.S.C. 151 through 21 U.S.C. 158); or

(2) in Indiana and approved by the board;

may be administered to animals in Indiana.

(b) The serial number and the date of expiration of a vaccine administered to animals must be affixed to the vaccine container.

Chapter 13. Feeder Pigs

Sec. 1. A livestock dealer's license is required to engage in business as a feeder pig dealer.

Sec. 2. Before issuing a feeder pig dealer a license under this chapter, the board shall inspect and approve the concentration point or points used by the feeder pig dealer.

Sec. 3. The board may do the following:

(1) Exempt from this chapter a farmer that moves feeder pigs into Indiana for the farmer's feeding program.

(2) Require a farmer described in subdivision (1) to obtain a special permit from the board for each shipment of feeder pigs moved into Indiana.

Sec. 4. The board shall establish standards for construction and maintenance of concentration points to assure adequate facilities for washing and disinfecting swine pens and maintaining sanitary conditions. Concentration points must meet the standards before approval.

Sec. 5. Pigs sold through:

(1) stockyards;

(2) livestock auction markets; or

(3) places of business where pigs are assembled for resale, other than pigs sold for immediate slaughter;

must be identified using an identification approved by the board before being moved from the point of sale.

Sec. 6. Except as provided in section 3 of this chapter, a person may not import, move, or introduce into Indiana any feeder pigs unless the feeder pigs are:

(1) identified using an identification approved by the board;

(2) accompanied by a permit issued by the board; and

(3) accompanied by an official certificate of veterinary inspection issued and signed by a veterinarian who is:

(A) licensed or legally able to practice in Indiana; and

(B) accredited by the United States Department of Agriculture or another sanctioning body approved by the board.

Sec. 7. All pigs must be vaccinated, treated, or inspected before

sale or being offered for sale, as required by the board.

Sec. 8. Feeder pigs that are imported, moved, or introduced into Indiana in violation of this chapter shall be immediately placed under quarantine and unloaded at a facility designated by the board. The truck or conveyance used to transport the quarantined feeder pigs must be impounded until compliance with this chapter is determined. The consignor or shipper shall pay the costs of feeding and caring for the quarantined feeder pigs.

Chapter 14. Livestock Dealers

Sec. 1. This chapter does not apply to the following:

(1) The purchase of livestock by an individual for the individual's own use other than resale on the livestock market.

(2) The distribution of livestock in connection with programs dedicated to improvement of breeding practices or experimental procedures in which the ownership of the livestock remains vested, in whole or in part, in the distributor or breeder.

(3) The purchase or sale of livestock by a producer or farmer that buys or sells livestock in connection with a business of raising, feeding, grazing, or breeding livestock as a part of a farming enterprise and does not follow a definite or routine pattern of disposing of acquired livestock through channels of trade in less than sixty (60) days after the date of acquisition as part of a farming enterprise as distinguished from that of a dealer or trader.

(4) The purchase of livestock by slaughtering establishments, meat processors, restaurants, grocery stores, meat markets, and similar businesses if:

(A) the livestock is purchased solely for the purpose of being processed into meat products for use or sale in connection with the business; and

(B) the total number of livestock purchased for the use or sale does not exceed twenty (20) in any one (1) week.

Sec. 2. Unless specifically exempted in this chapter, a person must obtain a license under this chapter to act as a dealer in livestock in Indiana. A person may not deal in livestock after the expiration, suspension, or revocation of the person's license.

Sec. 3. The board shall classify dealers required to be licensed under this chapter based on the enterprise in which each dealer is

engaged. The classifications must be consistent with the definitions set forth in this article and must be based on the facts in the dealer's license application and any supporting papers or any inquiry or investigation made in conjunction with the application.

Sec. 4. (a) Licenses are issued under the following classifications:

(1) A market facility dealer license issued to livestock auction markets, stockyards, packers, or concentration points.

(2) An individual dealer license issued to individual dealers and market agencies not operating a market facility.

(b) A separate license is required for each location at which stockyards, packing plants, market agencies, or livestock auction markets are operated. More than one (1) license may not be required of individual dealers other than those operating as market agencies at different locations.

(c) A license issued under this chapter continues in effect until the licensee ceases operating as a livestock dealer in Indiana or the board revokes the license.

(d) The board may adopt rules to implement this chapter, including the following:

(1) Procedures for issuing, suspending, revoking, and updating licenses.

(2) Requiring annual or other regular reports from licensees to:

(A) determine the required amount of bond coverage under this chapter or the current status of agents or other personnel acting under the license; or

(B) update other information used in administering the requirements of this chapter.

Sec. 5. (a) Subject to subsection (b), a livestock dealer may designate agents subject to the liabilities that ordinarily attach under a contract of agency. An agent may deal in livestock for the principal under the principal's livestock dealer license. An agent dealing in livestock may deal only as an agent for the principal unless the agent has obtained a separate license under this chapter.

(b) A livestock dealer may not designate an individual as an agent if the individual's dealer's license was suspended or revoked in any state or by the United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration during

the two (2) years preceding the proposed designation.

Sec. 6. (a) Except as provided under sections 7 and 8 of this chapter, before operating a livestock dealer business, a person must execute and maintain a bond or bond equivalent that meets the requirements of this section.

(b) The form of the bond or bond equivalent shall be prescribed by the board and must meet the following minimum requirements:

(1) The instrument must be payable to the state of Indiana, as obligee, for any person who may be damaged as a result of a breach of the conditions of the instrument.

(2) The terms of the instrument must secure the performance of the licensee's obligations under this chapter. The instrument must specifically provide that the dealer will pay all legal claims that may accrue in favor of any seller of livestock in Indiana.

(3) The surety on any livestock dealer bond or bond equivalent must be a surety company authorized to do business in Indiana.

(4) The bond or bond equivalent is considered to be continuous unless otherwise specified. The instrument must contain a provision requiring that, before terminating the instrument, the terminating party must serve to the board either:

(A) written notice of termination at least thirty (30) days before the effective date of the termination; or

(B) notice of a valid replacement bond or bond equivalent that provides continuous coverage.

(c) The livestock dealer bond or bond equivalent required under this section must be an amount that is not less than the next highest multiple of five thousand dollars ($5,000) above the quotient of:

(1) the dollar amount of livestock transactions conducted by the license applicant during the preceding twelve (12) months, or in that part of the year in which the applicant did business; divided by

(2) the number of days on which business was conducted.

(d) The following apply to the calculation set forth in subsection (c):

(1) The number of days on which business was conducted in a year may not exceed one hundred thirty (130).

(2) The amount of the bond or bond equivalent may not be less than ten thousand dollars ($10,000), and when the requirements exceed fifty thousand dollars ($50,000) under the calculations as specified in subsection (c), the amount of the instrument need not exceed fifty thousand dollars ($50,000) plus ten percent (10%) of the excess raised to the next multiple of five thousand dollars ($5,000).

(e) If the gross amount of business transacted during a twelve (12) month period changes and warrants an increase in the amount of bond or bond equivalent coverage required under this chapter, the dealer shall have the bond or bond equivalent adjusted to comply with this chapter. If the gross amount of business changes to warrant a decrease in the amount of bond or bond equivalent required under this chapter, the dealer may have the bond or bond equivalent adjusted accordingly.

(f) A licensee may furnish a blanket bond or bond equivalent, based upon the gross amount of business transacted on an annual basis for each enterprise operated under the same ownership, instead of individual instruments for each enterprise operated.

Sec. 7. If a licensee under this chapter has a valid bond or bond equivalent on file with the United States Department of Agriculture, Grain Inspection and Packers and Stockyards Administration, and the bond or bond equivalent is an adequate amount and conditioned upon terms that provide at least as much protection to sellers of livestock as a state bond under this chapter, additional coverage by bond or bond equivalent under this chapter is not required.

Sec. 8. A packer, other than a packer operating stockyards in Indiana, is not required to furnish security under section 6 of this chapter if a bond or bond equivalent is not required of the packers under the federal Packers and Stock Yards Act of 1921 (7 U.S.C. 181 through 7 U.S.C. 229).

Sec. 9. A dealer required to be licensed under this chapter shall keep records, accounts, and memoranda fully and correctly disclosing all purchases, sales, or transfers involving completed livestock transactions in connection with the dealer's business. The records concerning the business must disclose all persons with an ownership interest in the business, including stockholders. If the board finds that the accounts, records, memoranda, and ownership

interest do not fully disclose all the transactions involved in the dealer's business, the board may prescribe the record keeping procedures that the dealer must follow.

Sec. 10. (a) Scales used by a dealer licensed under this chapter are subject to inspection and testing by a scale inspector who may be any weights and measures inspector appointed by the state department of health. Scales are subject to the applicable requirements of the code of specifications, tolerances, and rules for scales adopted by the state department of health.

(b) If, after proper inspection and testing, a scale fails to meet the applicable requirements of subsection (a), the scale inspector may condemn the scale to prevent its further use until the scale is brought into conformance with the requirements.

(c) A dealer licensed under this chapter, after a hearing under this chapter, shall have the dealer's license revoked if the hearing establishes that the dealer is guilty of fraudulent, deceptive, or dishonest practices in the weighing of livestock.

Sec. 11. (a) A person who knowingly or intentionally allows a scale to be used in a business transaction involving the purchase, sale, or exchange of livestock:

(1) after the scale has been condemned; and

(2) before it has been repaired to the satisfaction of the scale inspector;

commits a Class D felony.

(b) In addition to any criminal penalties imposed, a person who violates subsection (a) may be subject to a civil penalty of fifty dollars ($50) for each day the defective scale is used. If a civil penalty is assessed under this subsection and not paid, the prosecuting attorney of the county where the proceeding was brought may enforce the collection of the civil penalty. Civil penalties collected under this section must be deposited in the state general fund.

Chapter 15. Sales, Shipments, and Exhibitions

Sec. 1. A person may not sell an animal that the person knows or suspects has an infectious or contagious disease except:

(1) to an approved slaughtering establishment;

(2) to a licensed marketing facility; or

(3) as the state veterinarian directs.

Sec. 2. (a) A person that operates or conducts a sale of livestock

shall keep an accurate and complete record of all sales, including the following:

(1) The kind of animals received for sale.

(2) The name and address of the person from whom the animals were received.

(3) The date on which the animals were received.

(4) The name and address of the person to whom the animals were sold.

(5) The kind and number of animals sold to each person.

(6) The price paid for the animals.

(7) The record of individual ear tags, ear notches, back tags, tattoos, or brands for each animal.

(8) If tested, individual test records, health records, and health certificates for each animal.

(9) Any other information required by the board.

(b) The record must be available for inspection by authorized personnel of the board.

Sec. 3. (a) The board may adopt rules requiring that:

(1) all dairy or breeding cattle and bison sold through any public or private sale must be accompanied with an official health certificate; and

(2) the cattle and bison test negative for brucellosis and tuberculosis.

However, a special form prescribed by the board may be used for this purpose instead of the certificate of veterinary inspection.

(b) The board may adopt rules exempting animals from testing for brucellosis and tuberculosis within Indiana or other states or areas.

(c) The board may not adopt rules exempting animals presenting little risk of spreading disease from brucellosis and tuberculosis testing requirements. However, the state veterinarian may order cattle of any age to be tested to determine the disease status of the animal.

Sec. 4. Cattle that react positively to a brucellosis test may not be sold for any purpose other than immediate slaughter. If cattle first react positively to a brucellosis test at a livestock auction market, community sale, or public stockyard, the owner or consignor of the cattle may remove the cattle to the owner's or consignor's premises, subject to quarantine laws and restrictions

prescribed by the board. If a retest is negative, the animal may be sold in the same manner as any other animal that reacts negatively.

Sec. 5. A person owning, operating, or controlling a livestock auction market, livestock show, or public stockyard in Indiana shall thoroughly clean and disinfect all the premises and enclosures according to rules adopted by the board. All disinfecting agents used for disinfecting swine, crates, cars, and other conveyances and the methods of disinfecting must meet the approval of the state veterinarian.

Sec. 6. A person operating or conducting a livestock auction market, community sale, or public stockyard may not sell or offer for sale any swine unless the swine have been:

(1) vaccinated;

(2) treated;

(3) vaccinated and treated; or

(4) inspected;

according to rules adopted by the board.

Sec. 7. (a) An animal may be sold for immediate slaughter at a livestock auction market, community sale, or public stockyard.

(b) A person may not knowingly resell or divert for any purpose, other than immediate slaughter to an approved slaughtering establishment, an animal sold for immediate slaughter.

Sec. 8. An injured or a diseased animal and its products are unfit for human consumption and may not be:

(1) sold or offered for sale; or

(2) purchased or offered for purchase;

for food purposes.

Sec. 9. The sale, exhibit, or display of animals at a fair or livestock show is subject to rules adopted by the board.

Sec. 10. The operator of a livestock auction market or community sale and the operator's agents and employees shall provide reasonable assistance to the personnel engaged in state inspection as required to enable the inspectors to perform their duties. The operator shall furnish the facilities and assistance necessary to restrain animals to allow state inspection. The operator shall furnish the facilities necessary to allow the inspector to conduct tests and fill out all papers and forms required for the inspector's duties.

Sec. 11. Animals moving in trade or market channels within

Indiana must be identified to the extent and in a manner considered necessary and prescribed by the board.

Sec. 12. The official health certificates, tests, charts, or other prescribed documents that are required by law or by rule must:

(1) accompany animals when they are transported, shipped, or moved;

(2) be present in the truck or other vehicle of transport used in shipping the animals; and

(3) be available for inspection by authorized personnel of the board.

Chapter 16. Licenses

Sec. 1. (a) An application for a license under this article must be made on forms prescribed by the board. The board may adopt a rule that requires:

(1) the information on the application to be subscribed and sworn to or affirmed before a notary public by the applicant or the applicant's authorized representative; and

(2) that the affidavit is a component of the application.

(b) The application must include the information required by this article. The board shall use the information from the application and other information as the board considers pertinent to determine whether a license should be issued, suspended, revoked, or denied.

Sec. 2. (a) Except for an applicant that is a foreign corporation, a nonresident applicant for a license under this article must file with the board an irrevocable consent that specifies the following:

(1) The proceedings against the applicant may be filed in any appropriate court of any county or municipality in Indiana where:

(A) the plaintiff resides; or

(B) any part of the transaction occurred out of which the alleged cause of action arose.

(2) The process in any action may be served on the applicant by leaving with the board two (2) copies of the complaint or pleadings that have been filed in an Indiana court.

(3) That the service of process in subdivision (2) is valid and binding for all purposes.

(b) The board shall promptly forward, by registered mail, one (1) copy of any service of process to the applicant at the address

shown on the records of the board.

(c) A foreign corporation may not receive a license under this chapter until it is authorized by the secretary of state to do business in Indiana.

Sec. 3. (a) The board may adopt rules concerning the following:

(1) Annual or biannual renewal of any class of license issued under this article.

(2) A common renewal date for each class of license.

(b) The state veterinarian or the state veterinarian's authorized agent shall sign each license issued by the board.

Sec. 4. The board may not refuse to issue a license without cause.

Sec. 5. The board may refuse to issue or reissue and may suspend or revoke a license issued under this article for any of the following reasons relating to the licensee or applicant for a license:

(1) Material misstatement in the application for original license, or in the application for any reissue of a license, under this article.

(2) Violation of this article or of a rule or order of the board.

(3) Abetting another in the violation of this article or of a rule or order of the board.

(4) Allowing a license issued under this article to be used by an unlicensed person.

(5) Conviction of a crime, an essential element of which is misstatement, fraud, or dishonesty.

(6) Conviction for violating a law or regulation of another state or of the United States that is materially similar to a substantive provision of this article or a rule of the board.

(7) Suspension or other disciplinary action taken by the Secretary of the United States Department of Agriculture under the Packers and Stock Yards Acts of 1921 (7 U.S.C. 181 through 7 U.S.C. 229), as amended, if it appears that the applicant or licensee committed or participated in the violation covered by the disciplinary action.

(8) Material misrepresentation or false promises of a character likely to influence, persuade, or induce to action, in connection with any business subject to this article.

(9) Failure to possess the qualifications determined by the board to be necessary or to meet the requirements of this

article for the issuance or holding of a license.

Sec. 6. Pending:

(1) a proceeding to suspend or revoke a license issued under this article; or

(2) an appeal from a decision to suspend or revoke a license issued under this article;

each person affected by the proceeding or appeal shall continue to comply with this article.

Sec. 7. The board:

(1) may upon its own motion; and

(2) shall upon a verified written complaint that alleges facts that would constitute grounds for refusal, suspension, or revocation of a license under this article;

investigate the actions of an applicant or person holding or claiming to hold a license under this article.

Sec. 8. After the revocation or suspension of a license, the licensee must surrender the license to the board. If the licensee fails to surrender the license, the board may seize the license.

Sec. 9. A person who recklessly, knowingly, or intentionally engages in an activity without a license required for the activity under this article commits a Class D felony.

Chapter 17. Administrative Hearings

Sec. 1. The board may conduct any hearings that the board considers necessary for the performance of the board's duties under this article, IC 15-18-1, or IC 15-19-6.

Sec. 2. If a hearing is provided for or authorized to be held by the board, the board may designate a person as the board's agent to conduct the hearing.

Sec. 3. All hearings for the purpose of agency action shall be conducted under IC 4-21.5, unless the procedure is waived by the parties concerned after due notice of the right to a hearing under IC 4-21.5 has been given. Waiver of a hearing may be made in writing or by failure to request in writing a hearing under IC 4-21.5, within fifteen (15) days after receipt of the notice.

Sec. 4. Before:

(1) any license is denied, suspended, or revoked;

(2) any disciplinary action is taken; or

(3) the rights of any persons are adversely affected;

under this article, IC 15-18-1, or IC 15-19-6, notice must be given

to the person affected by the agency action. The notice must contain a statement of the person's right to adjudication of the action under IC 4-21.5.

Sec. 5. Any notice required by this article, IC 15-18-1, or IC 15-19-6, including notice required under IC 4-21.5-3, may be served by:

(1) personal delivery to the person concerned, by leaving the notice at the place of business or residence last specified by the person concerned or the person's last notification to the board; or

(2) mailing the notice by registered or certified mail to the place of business or residence last specified by the person concerned in the person's last notification to the board.

Sec. 6. Any person who is aggrieved by the enforcement of any rule adopted by the board or any order of the state veterinarian or the board may appeal to the board for a review of the enforcement or order. The board may review the enforcement or order on appeal and affirm, modify, or reverse the enforcement or order appealed from.

Sec. 7. An aggrieved person may seek judicial review of a final determination of the board under IC 4-21.5-5.

Chapter 18. Crimes and Infractions

Sec. 1. A person who knowingly or intentionally:

(1) treats a bovine animal with a material, substance, or biologic to interfere with the brucellosis test or with a reaction to a brucellosis test;

(2) fraudulently makes an animal react to a brucellosis test; or

(3) interferes with the inspector who is making the test;

commits a Class D felony.

Sec. 2. A person who knowingly or intentionally:

(1) alters or changes an animal's official identification to conceal the identity of an animal;

(2) interferes with the official identification of a diseased domestic animal;

(3) removes, without permission of the board, except as provided in this article, any animal from a herd placed under quarantine; or

(4) alters or changes the official identification of any domestic animal;

commits a Class D felony.

Sec. 3. A person who knowingly or intentionally:

(1) sells;

(2) keeps, with intent to sell; or

(3) disposes of to another person, with intent to conceal, except for immediate slaughter;

an animal classified as a reactor, or suspected of being affected with any disease as disclosed by a test recognized by the board, commits a Class D felony.

Sec. 4. A person who knowingly or intentionally:

(1) delivers for transportation;

(2) drives on foot;

(3) removes from the premises where they are located; or

(4) receives for transportation;

any cattle classified as a reactor or suspected of being affected with brucellosis as disclosed by a test recognized by the board, except for immediate slaughter or by special permit from the board, commits a Class D felony.

Sec. 5. A person who knowingly or intentionally transports a domestic animal identified as a reactor with other domestic animals, except where the other domestic animals are being transported for immediate slaughter, commits a Class D felony.

Sec. 6. A person who knowingly or intentionally imports a domestic animal into Indiana without taking suitable precautions to prevent the introduction and spread of contagious or infectious disease, in conformance with the rules adopted by the board, commits a Class D felony.

Sec. 7. A person who knowingly or intentionally moves, from the property on which the domestic animal is confined, a domestic animal that has an infectious or a contagious disease, except under rules adopted by the board, commits a Class D felony.

Sec. 8. (a) Except as provided in subsection (b), a person responsible for livestock or poultry who knowingly or intentionally permits the livestock or poultry to run at large commits a Class B misdemeanor.

(b) Subsection (a) does not apply to a person who keeps livestock on property by means of a cattle guard or another device under IC 8-17-1-2.1.

Sec. 9. (a) This section does not apply to IC 15-17-5 or

IC 15-18-1.

(b) A person who knowingly or intentionally violates or fails to comply with this article commits a Class D felony.

(c) A person who knowingly or intentionally violates or fails to comply with a rule adopted under this article commits a Class A infraction.

Sec. 10. A person may not import to or export from Indiana for the purpose of sale any dog under the age of eight (8) weeks unless the dog is transported with its dam. However, research facilities licensed under the federal Laboratory Animals Welfare Act, 7 U.S.C. 2131 et seq., are exempted from this prohibition.

Sec. 11. (a) A person who sells:

(1) a bird under the age of three (3) weeks; or

(2) a rabbit under the age of two (2) months;

commits a Class B misdemeanor. This subsection does not apply to commercial breeders or distributors whose facilities are adequately equipped for the care of young birds or rabbits.

(b) A person who dyes, stains, or alters the natural coloring of a bird or rabbit commits a Class B misdemeanor.

Sec. 12. (a) This section does not apply to IC 15-17-5 or IC 15-18-1.

(b) A person who violates this article, a rule adopted under this article, or a determination or order of the board or an agency made under this article is liable for a penalty not to exceed twenty-five thousand dollars ($25,000) for each day of the violation, plus payment to the board for the costs incurred by the board as a direct consequence of prosecution for the violation. These penalties and costs may be recovered in a civil action commenced in any court of competent jurisdiction by the board or an agency. In addition, in an action to recover the penalty, a request may be made that the person be enjoined from continuing the violation.

Sec. 13. Official health certificates, official certificates of veterinary inspection, and official certificates of vaccination, tests, and other prescribed documents that are required by this article or by rule constitute written instruments for purposes of IC 35-43-5.

Chapter 19. Enforcement

Sec. 1. All law enforcement officers and law enforcement agencies within Indiana shall provide assistance as is necessary to

the board, the state veterinarian, a county veterinarian, or an agent of the United States Department of Agriculture in enforcing this article.

Sec. 2. This article may be enforced by any appropriate action in the name of the state of Indiana, filed and conducted by the attorney general or the appropriate prosecuting attorney.

Sec. 3. (a) If a person engages in the business of a livestock dealer, including employing an individual to act on the person's behalf, without a license required under this article:

(1) the attorney general;

(2) the board or the board's representative;

(3) the prosecuting attorney; or

(4) a resident of the county in which the person engaged in the business of dealing without a license;

may maintain an action in the name of the state to enjoin the person from continuing the violation.

(b) An injunction granted under this section does not relieve a person from any criminal prosecution allowed for the person's violation of this article.

(c) A complaint for an injunction is sufficient if it alleges that:

(1) on a certain date; and

(2) in a specific county;

the person engaged in business as a livestock dealer and did not have a valid license required under this article.

(d) If an injunction is granted in an action brought by a resident of the county, the court shall order the defendant to pay reasonable attorney's fees to the plaintiff's attorney.

SECTION 9. IC 15-18 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 18. DAIRY PRODUCTS

Chapter 1. Milk and Milk Products; Permits; Standards; Inspections

Sec. 1. The following apply to this chapter:

(1) IC 15-17-2 (definitions).

(2) IC 15-17-16 (licensing).

(3) IC 15-17-17 (hearings).

(4) IC 15-17-19 (enforcement).

Sec. 2. (a) A person may not produce, provide, sell, offer, display

for sale, or have in possession with intent to sell milk or a milk product that is adulterated or misbranded.

(b) Adulterated or misbranded milk or a milk product may be impounded by the board and disposed of in accordance with IC 16-42-1 and IC 16-42-2-6. For purposes of this section, references in IC 16-42-1 and IC 16-42-2-6 to:

(1) "state health commissioner" refer to the state veterinarian; and

(2) "department" refer to the board.

(c) Milk and milk products must conform to the standards in this chapter and in the rules adopted by the board. However, if there is an emergency, general, and acute shortage of milk in a milkshed, the board may authorize the sale of pasteurized milk that does not fully meet the requirements of this chapter.

Sec. 3. (a) A person that operates a milk plant, operates a receiving station or transfer station, acts as a milk distributor, acts as a bulk milk hauler/sampler, operates a milk tank truck, operates a dairy farm, operates a milk tank truck cleaning facility, operates a business that manufactures containers for milk or milk products, or any other person that does not possess a permit from the board may not:

(1) bring, send, or receive into Indiana for sale;

(2) sell or offer for sale in Indiana; or

(3) store in Indiana;

any milk or milk products. Grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold at retail, but not processed, are exempt from the requirements of this section. The board may recognize a permit issued by another state for a truck used to transport milk instead of issuing an Indiana permit for the same truck.

(b) To obtain a permit required by this chapter, a person must submit a written application to the board, in the form prescribed by the board.

(c) Only a person who complies with this chapter is entitled to receive and retain a permit. Permits are not transferable with respect to persons or locations.

Sec. 4. (a) The board may suspend a permit issued under section 3 of this chapter whenever:

(1) there is reason to believe that a public health hazard

exists;

(2) the permit holder has violated any of the requirements of this chapter; or

(3) the permit holder has interfered with the board in the performance of the board's duties.

(b) The board shall:

(1) in all cases except where the milk or milk product involved creates or appears to create an imminent hazard to the public health; or

(2) in any case of a willful refusal to permit authorized inspection;

serve upon the permit holder a written notice of intent to suspend the permit under IC 4-21.5. A suspension of a permit is effective immediately and remains in effect until the violation has been corrected to the satisfaction of the board.

Sec. 5. (a) When a permit has been suspended due to a violation of any of the bacterial, coliform, somatic cell, or cooling temperature standards, the board shall, not later than one (1) week after the receipt of a written application for reinstatement of a permit, issue a temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. Samples must then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period, and the board shall reinstate the permit upon compliance with the appropriate standard, as determined in accordance with section 13 of this chapter.

(b) If a permit has been suspended due to a violation of a drug residue test requirement or a requirement other than the bacteriological, coliform, somatic cell, or cooling temperature standards, the application for reinstatement must contain a written statement that the violation has been corrected. Not later than one (1) week after the receipt of an application, the board shall make an inspection of the applicant's establishment and as many subsequent additional inspections as are considered necessary to determine that the applicant's establishment is complying with the requirements. When the findings justify, the permit must be reinstated. If a permit has been suspended due to drug residues, the permit shall be reinstated in accordance with section 17 of this

chapter.

Sec. 6. The board may refuse to issue or reissue, may suspend for a definite time, or may revoke permits issued under this chapter for repeated violations of this chapter or a rule adopted by the board. The refusal to issue or revocation of a permit under this section must be conducted in accordance with IC 4-21.5.

Sec. 7. A permit issued under this chapter expires as follows:

(1) A bulk milk hauler/sampler permit expires on December 31 of the third year after the year in which the permit was issued.

(2) A dairy farm permit expires upon an action listed in subdivisions (4) through (6).

(3) A permit, other than a bulk milk hauler/sampler permit and a dairy farm permit, expires on December 31 of the year in which the permit was issued. Permits issued within the last three (3) months of a year may be issued to expire on December 31 of the following year.

(4) Upon discontinuance of operation for a period of ninety (90) days.

(5) Upon the revocation of the permit by the board.

(6) Upon the sale or other transfer of an operation to a different owner or operator.

(7) For a milk distributor, milk plant, receiving station, transfer station, or milk tank truck cleaning facility, a transfer of the place of business from one (1) building or room to another.

Sec. 8. The board may adopt rules under IC 4-22-2 to implement sections 3 through 7 of this chapter.

Sec. 9. (a) The state veterinarian shall examine each application for a permit required in this chapter. If the applicant for a permit has complied with all statutes and rules enforced by the board, the state veterinarian shall cause the premises, location, equipment, and operating practices of the applicant to be inspected not later than ten (10) days after the receipt of the application for a permit. If the premises, location, equipment, and operating practices comply with this article and the rules of the board, the state veterinarian shall issue a permit entitling the applicant to engage in the business for which the application was submitted.

(b) The board shall conduct the following inspections:

(1) Each dairy farm and transfer station at least one (1) time every six (6) months.

(2) Each milk plant and receiving station at least one (1) time every three (3) months.

In addition, following the issuance of a permit, the board may, to determine compliance with this chapter, inspect the licensee's facility, procedures, and equipment.

(c) If the board finds a violation of the standards for Grade A milk adopted under section 14 of this chapter, a second inspection is required after the time thought necessary to remedy the violation but not sooner than three (3) days after finding the violation. The reinspection must be used to determine compliance with the requirements adopted under section 14 of this chapter. A violation of the same requirement on the reinspection results in permit suspension in accordance with section 6 of this chapter or court action, or both.

(d) One (1) copy of the inspection report must be:

(1) handed to the operator or other responsible person; or

(2) posted in a conspicuous place on an inside wall of the establishment.

The inspection report may not be defaced and must be made available to the board upon request. An identical copy of the inspection report must be filed with the records of the board.

(e) A person licensed under this chapter shall, upon request of the board, permit access of officially designated persons to all parts of the person's establishment or facilities to determine compliance with this chapter. A distributor or plant operator shall furnish the board, upon request and for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold and a list of all sources of the milk and milk products, records of inspection, tests, and pasteurization time and temperature records.

(f) A person who, in an official capacity, obtains under this chapter any information that is entitled to protection as a trade secret, including information as to quantity, quality, source, or disposition of milk or milk products, or results of inspections or tests, may not use the information to the person's own advantage or reveal the information to an unauthorized person.

Sec. 10. If the board finds unsanitary conditions existing in

violation of sanitary statutes or rules of the state or a violation of this chapter:

(1) on a dairy farm;

(2) in a milk plant, receiving station, transfer station, or milk tank truck cleaning facility; or

(3) by a milk distributor, bulk milk hauler/sampler, owner of a can milk route, or owner of a milk tank truck;

the board shall, by notice in writing to the person committing the violation, prohibit the sale or transportation of raw or pasteurized milk or milk products until the unsanitary condition or violation is removed to the satisfaction of the board and the prohibition is terminated.

Sec. 11. (a) A milk plant, receiving station, or transfer station that receives raw milk or raw cream from a producer of raw milk or raw cream shall employ at least one (1) approved grader.

(b) The board may issue an approved grader permit to a person who meets the following requirements:

(1) The person has submitted an application for an approved grader permit to the board.

(2) The person has been trained by school or experience to grade and inspect raw milk or raw cream.

(3) The applicant has passed an examination given by the board.

(c) An application to renew an approved grader permit must be made on forms prescribed by the board.

(d) A permit of approval does not authorize an approved grader to be an official employee, an agent, or a representative of the board. An approved grader may not profess to be an employee, an agent, or a representative of the board.

Sec. 12. (a) A bottle, container, or package enclosing milk, Grade A dry milk products, or milk products must be labeled in accordance with the rules of the board.

(b) A vehicle or transport tank containing milk or milk products must be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

(c) A tank transporting raw, heat treated, or pasteurized milk or milk products to a milk plant from sources of supply not under the routine supervision of the board must be marked with the name and address of the milk plant or hauler and must be sealed. In

addition, for each shipment a shipping statement must be prepared containing at least the following information:

(1) The shipper's name, address, and permit number.

(2) The permit number of the hauler, if the hauler is not an employee of the shipper.

(3) The point of origin of shipment.

(4) The tanker identity number.

(5) The name of the product.

(6) The weight of the product.

(7) The grade of the product.

(8) The temperature of the product.

(9) The date of shipment.

(10) The name of the supervising agent of the state regulatory authority at the point of origin.

(11) Whether the contents are raw, pasteurized, or heat treated.

(12) The seal number on inlet, outlet, and wash connections and vents.

(13) The grade of the product.

(14) The antibiotic test results.

(d) The statement must be prepared in triplicate and must be kept on file by the shipper, the consignee, and the carrier for six (6) months for the information of the board.

(e) The labeling information that is required on all bottles, containers, or packages of milk or milk products must be in letters of an acceptable size, kind, and color satisfactory to the board and must contain no marks or words that are misleading.

Sec. 13. (a) Samples of raw and processed milk and milk products must be collected as required under this section and rules adopted by the board as follows:

(1) A bulk milk hauler/sampler shall collect a representative sample of the milk from each farm tank before collecting the milk for delivery. Each sample must be labeled so as to identify the farm of origin. Each sample must be delivered to a milk plant, receiving station, transfer station, or other location approved by the board.

(2) During any consecutive six (6) months, at least four (4) samples of raw milk for pasteurization must be collected from each milk producer. The samples must be taken at least

twenty (20) days apart.

(3) During any consecutive six (6) months, at least four (4) samples of raw milk for pasteurization must be collected from each milk plant, after receipt of the milk by the milk plant and before pasteurization. The samples taken from the producer may not be taken in the same month and the samples must be taken at least twenty (20) days apart.

(4) During any consecutive six (6) months, at least four (4) samples of pasteurized milk, heat treated milk, and at least four (4) samples of milk products and Grade A dry milk products must be taken from every milk plant. The samples must be taken at least twenty (20) days apart.

Samples of milk and milk products must be taken while in possession of the producer or distributor at any time before final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and milk products are sold must be examined periodically as determined by the board, and the results of the examination must be used to determine compliance with this chapter. Proprietors of such establishments must furnish the board, upon the board's request, with the names of all distributors from whom milk or milk products are obtained.

(b) Bacterial counts, somatic cell counts, and cooling temperature checks must be performed on raw milk for pasteurization as required by the board.

(c) In addition, antibiotic tests on milk from each producer's farm must be conducted at least four (4) times during any consecutive six (6) months, but not in the same month. Antibiotic testing of commingled milk from bulk milk vehicles must be conducted as specified by the United States Food and Drug Administration or the board. When commingled milk is tested, all producers must be represented in the sample. All individual sources of milk must be tested when test results on the commingled milk are positive. The milk plant, receiving station, or transfer station shall conduct or have conducted all tests required by the board on milk producer raw milk sample laboratory analyses and forward the results of the analyses to the board.

(d) Bacterial counts, coliform determinations, phosphatase, and cooling temperature checks must be performed on pasteurized milk

and milk products as required by rules adopted by the board.

(e) Whenever two (2) of the last four (4) consecutive bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures taken on separate days exceed the limit of the standard for milk or milk products, the board shall send a written notice to the person concerned. This notice remains in effect as long as two (2) of the last four (4) consecutive samples exceed the limit of the standard. An additional sample must be taken not later than twenty-one (21) days after sending the notice, but not before the lapse of three (3) days. Immediate suspension of a permit or court action, or both, shall be instituted whenever the standard is violated by three (3) of the last five (5) bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures.

(f) Whenever a phosphatase test is positive, the cause must be determined. If the cause is improper pasteurization, the problem must be corrected, and any milk or milk product involved may not be offered for sale.

(g) Samples must be analyzed at an official laboratory or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations must be in substantial compliance with the most current edition of the Standard Methods for the Examination of Dairy Products of the American Public Health Association and the most current edition of the Official Methods of Analyses of AOAC International. These procedures and examinations must be evaluated in accordance with the methods of evaluating milk laboratories recommended by the United States Food and Drug Administration. Aseptically processed milk and milk products packaged in hermetically sealed containers must be tested in accordance with the United States Food and Drug Administration's Bacteriological Analytical Manual.

(h) Examinations and tests must be conducted to detect adulterants, including pesticides, as the board requires. Assays of vitamin D milk or milk products and fortified milk and milk products must be made at least annually by a milk plant in a laboratory acceptable to the board. Facilities fortifying products with vitamins must keep volume control records that cross-reference the form and amount of vitamin D and vitamin A used with the amount of product produced.

Sec. 14. (a) Raw milk for processing and milk and milk products must conform to all the standards in the rules adopted by the board.

(b) The board shall adopt a rule and may adopt emergency rules under IC 4-22-2-37.1 to establish standards for Grade A milk and milk products. The standards adopted under this section must be:

(1) the same as; or

(2) at least as effective in protecting health as;

the federal standards for Grade A milk adopted by the National Conference on Interstate Milk Shipments in accordance with the national conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration, including amendments to the federal standards in effect June 30, 1993.

(c) The board shall determine when an amendment to federal standards described in subsection (b) has been adopted. If the board determines that an amendment to the federal standards has been adopted, the board shall adopt rules and may adopt emergency rules under IC 4-22-2-37.1 to amend the rules adopted by the board under subsection (b) to provide a standard that is:

(1) the same as; or

(2) at least as effective in protecting health as;

the amendment to the federal standards for Grade A milk.

(d) The board may adopt standards for the production of manufacturing grade milk products.

(e) The board may do the following:

(1) Adopt rules defining grades of raw milk and milk products and various tests to be made at different intervals in the receipt of raw milk and milk products for the manufacturing or processing of milk and milk products.

(2) Adopt sanitary rules concerning the sampling, production, manufacturing, processing, handling, packing, storing, distributing, and transporting of milk and milk products for the enforcement of this chapter.

(3) Provide that raw milk and milk products that do not meet the minimum standards provided and that are unfit for human consumption be destroyed or removed from distribution channels for human food in a manner provided by rule.

(4) Require training for bulk milk hauler/samplers.

Sec. 15. (a) A person may not manufacture, sell, exchange, or have in the person's possession with intent to sell or exchange any milk or milk product that:

(1) does not conform to at least the minimum standards established and approved by the board; or

(2) is packaged in a container or wrapping with labeling that has not been approved by the board.

(b) A person may not manufacture, sell, exchange, or deliver, or have in the person's possession with intent to sell, exchange, or deliver, milk, cream, skim milk, condensed milk, evaporated milk, or powdered milk that:

(1) is mixed with sugar, eggs, flavors, or other substances;

(2) is:

(A) made in imitation or semblance of ice cream; or

(B) calculated or intended to be sold as ice cream or for ice cream; and

(3) does not conform with the standards for ice cream as approved and adopted by the board.

(c) This chapter does not prohibit the delivery to and the receiving of identifiable refillable milk containers by exchanges in the usual course of business and for the bona fide purpose of returning the containers to the lawful owners.

Sec. 16. (a) Milk must be screened for drug residue violations as follows:

(1) Except as provided in subdivision (2), milk shall be screened for drug residues as required by this chapter and rules adopted by the board. The board may adopt rules governing testing for drug residues in milk that are at least as effective in protecting the public health as the federal standards adopted by the National Conference on Interstate Milk Shipments in the Pasteurized Milk Ordinance.

(2) Milk from manufacturing grade dairy farms shall be tested for drug residues as required by this chapter and rules adopted by the board.

(3) All milk that tests positive for drug residues must be disposed of in a manner that removes it from the human and animal food chain or that acceptably reconditions the milk under United States Health and Human Services, Food and

Drug Administration compliance policy guidelines. In all cases of drug residue violations, a producer may not resume shipping milk until a drug test conducted by an officially designated laboratory shows the producer's milk is negative for drug residues and the test results are reported to the office of the state veterinarian.

(4) All positive drug residue test results must be called into the office of the state veterinarian immediately, and a written report of the test results must be faxed or delivered to the office of the state veterinarian not later than twenty-four (24) hours after the test. The producer whose milk tested positive must be notified of the positive drug residue test immediately. The company that conducted the test is responsible for the reporting requirements in this subdivision.

(b) The board may impose a civil penalty described in section 17 of this chapter on a person that sells or offers to sell milk that contains drug residues.

Sec. 17. (a) The following definitions apply throughout this section:

(1) "Daily production" means the amount of milk, measured by hundred weight, produced by the positive producer in one (1) day, measured on the day in which the drug residue violation occurred.

(2) "Producer reimbursement" means an amount assessed against the positive producer to reimburse others for milk contaminated by the positive producer's contaminated milk, not including the value of the positive producer's contaminated milk for which the positive producer was not paid.

(3) "Revocation period" means the period after a Grade A producer's permit is revoked under this section that the producer may not apply for a Grade A permit.

(b) A penalty established under this section may not be more severe than the penalty standard for drug residue violations adopted by the National Conference on Interstate Milk Shipments in its Pasteurized Milk Ordinance adopted in accordance with the National Conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration. The penalty imposed may not exceed one

thousand dollars ($1,000) for a first offense or two thousand dollars ($2,000) for a subsequent offense.

(c) A producer whose milk tests positive for drug residues shall pay a civil penalty and participate in drug residue education activities as follows:

(1) The following is imposed on a producer for the first positive test for drug residues within a twelve (12) month period:

(A) The civil penalty shall be determined as follows:

STEP ONE: Multiply the daily production by two (2).

STEP TWO: Multiply the STEP ONE result by three dollars ($3).

STEP THREE: Subtract the producer reimbursement from the STEP TWO result.

The positive producer shall pay a civil penalty that is the greater of the amount determined in STEP THREE or five dollars ($5).

(B) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health, office of the state veterinarian within thirty (30) days after the drug residue violation. Failure to complete the protocol and submit proof of completion within thirty (30) days results in action to suspend the producer's permit.

(2) The following is imposed for a second positive test for drug residues within a twelve (12) month period:

(A) The civil penalty shall be determined as follows:

STEP ONE: Multiply the daily production by four (4).

STEP TWO: Multiply the STEP ONE result by three dollars ($3).

The positive producer shall pay a civil penalty that is the greater of the amount determined in STEP TWO or five dollars ($5).

(B) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the state

veterinarian within thirty (30) days after the drug residue violation. Failure to complete the protocol and provide proof of completion results in action to suspend the producer's permit.

(C) The producer must attend a producer education program or meeting designated by the state veterinarian. The producer is responsible for paying registration and material fees and other costs associated with attending the education program or meeting. The producer must provide proof of attendance to the state veterinarian within ten (10) days after completion of the program or meeting.

(3) The third positive test result for drug residues within a twelve (12) month period has the following results:

(A) The board shall revoke a producer's Grade A permit if the producer has a permit.

(B) The sanctions for a second offense set forth in subdivision (2) are imposed.

(C) The producer must submit to the state veterinarian a set of written procedures that the producer will follow to prevent future drug residue violations. The procedures must be submitted with the proof of completion required in subdivision (2) and must be specific, practical, and reasonably likely to lessen the possibility of a drug residue violation when followed by the producer.

(D) After a producer's Grade A permit is revoked for a third offense violation under this statute, the producer may not receive a new Grade A permit for thirty (30) days after the date of the revocation. After this period, the state veterinarian must issue a conditional Grade A permit to a producer that has applied for a permit if the producer has met all the requirements of this section at the time of application and the producer meets all other requirements of the board for obtaining a Grade A permit. The permit must be issued on the condition that all the requirements of this section must be completed within the time set forth in this section. A permit issued under this clause automatically becomes unconditional after the producer fully complies with this section.

(4) For each drug residue violation in a twelve (12) month

period in excess of three (3) the producer is subject to the penalties for a third offense in subdivision (3), but for Grade A producers the revocation period begins on the date the producer's permit is revoked and runs for a period equal to two (2) times the length of the revocation period imposed after the producer's last drug residue violation.

(d) The state veterinarian, by special permit, may allow a producer that objects to the imposition of a civil penalty to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a civil penalty if payment of a civil penalty would impose undue hardship on a producer. The state veterinarian may set the conditions under which the milk is to be dumped and may require documentation from the producer showing the circumstances under which the milk was dumped.

(e) Civil penalties collected under this section shall be deposited in the dairy drug residue abatement fund established by section 31 of this chapter.

Sec. 18. (a) Milk for pasteurization must be from herds that are located in a modified accredited tuberculosis free area as determined by the United States Department of Agriculture. Herds located in an area that fails to maintain accredited status must be accredited by the United States Department of Agriculture as tuberculosis free or must have passed an annual tuberculosis test.

(b) Milk for pasteurization must be from herds under a brucellosis eradication program that meets one (1) of the following conditions:

(1) Is located in certified brucellosis free areas as defined by the United States Department of Agriculture and enrolled in the testing program for the area.

(2) Meets United States Department of Agriculture requirements for an individually certified herd.

(3) Participates in a milk ring testing program that is conducted on a continuing basis at intervals of at least every six (6) months with individual blood tests on all animals in herds showing suspicious reactions to the milk ring tests.

(4) Conducts an individual blood agglutination test annually with an allowable maximum grace period not exceeding two (2) months.

(c) Goat milk and sheep milk for pasteurization must be from a herd or flock that meets health requirements adopted by rule of the board.

(d) For a disease other than brucellosis and tuberculosis and for conditions other than disease that may adversely affect public health, the board shall require physical, chemical, or bacteriological tests as the board considers necessary. The diagnosis of other diseases in dairy cattle, goats, and sheep must be based upon the findings of a licensed veterinarian or a veterinarian employed by an official agency. A diseased animal must be disposed of as the board directs.

(e) Records documenting the tests required in this section shall be validated with the signature of a licensed veterinarian accredited by the United States Department of Agriculture or a board veterinarian.

Sec. 19. Raw milk from dairy farms that do not have a valid permit from the board to sell Grade A raw milk for pasteurization must be cooled to sixty (60) degrees Fahrenheit and be maintained at that temperature at the point of origin unless the milk is delivered to a receiving station or transfer station not later than two (2) hours after milking.

Sec. 20. (a) Only Grade A pasteurized milk, Grade A pasteurized milk products, and manufacturing grade milk products that meet the requirements of this chapter, including rules adopted under this chapter, may be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(b) A municipality or county may not do the following:

(1) Impose different standards or requirements for Grade A milk and milk products or manufacturing grade milk products than those provided for in this chapter.

(2) Prohibit the sale of milk or a milk product if the milk or milk product has been produced and processed in accordance with this chapter.

(c) A milk product other than a milk product that bears a Grade A label must meet the requirements for the production, processing, and handling of Grade A milk. This labeling requirement does not apply to butter or to any other product that is excluded by rules of the board.

Sec. 21. (a) A person may not offer, display for sale, sell, deliver, or have possession of with intent to sell or deliver milk or milk products for human consumption unless every particle of the final mixture of the milk or milk products used in processing or manufacture has been thoroughly pasteurized by equipment approved by the board.

(b) The provisions of this chapter governing pasteurization do not apply to a person selling or offering for sale cheddar cheese that has been made from unpasteurized milk if:

(1) the cheese was made from unpasteurized milk and has been cured or ripened for at least sixty (60) days at a controlled temperature of at least thirty-five (35) degrees Fahrenheit; or

(2) the cheese is manufactured solely to be made into processed cheese that is pasteurized during the blending or manufacturing process.

Varieties of cheese other than that of the cheddar type made from unpasteurized milk must be ripened for the time and under the conditions prescribed by rule of the board. Cheese made from unpasteurized milk and offered or displayed for sale to the consumer must be labeled by the manufacturer or distributor with the manufacturer's or distributor's name and address or an equivalent identifying number or symbol and with the date of manufacture or a statement to the effect that the cheese has been cured or ripened for at least sixty (60) days.

(c) A pasteurizer of any milk or milk products must be equipped with accurate indicating thermometers and accurate recording thermometers and, for vat pasteurization equipment, an accurate airspace thermometer of a type approved by the board. Each recording thermometer chart must be dated and numbered and must show the amount in gallons, the kind of product pasteurized, the accurate readings of the indicating thermometers and airspace thermometers, the time the reading was made, and the operator's initials. Each chart may not be used for more than one (1) day of operations. The records of the pasteurization of each batch pasteurized must be retained for at least ninety (90) days.

Sec. 22. (a) Except as permitted in this section, a milk producer or distributor may not transfer milk or milk products from one (1) container or tank truck to another on the street, in a vehicle, store,

or in any place except a milk plant, receiving station, transfer station, or milkhouse especially used for that purpose. The dipping or ladling of milk or fluid milk products is prohibited. A can milk hauler or a bulk milk hauler/sampler may not sample raw milk or milk products to test for butterfat or transfer raw milk or milk products from one (1) can or vehicle to another while in transit except in a receiving station, transfer station, or in conformity with the statutes and rules enforced by the board.

(b) A person may not sell or serve milk or a fluid milk product except in the individual original container received from the distributor or from an approved bulk dispenser. However, this requirement does not apply to the following:

(1) Milk for mixed drinks requiring less than one-half (1/2) pint of milk.

(2) Cream, whipped cream, or half-and-half that is consumed on the premises and that may be served from the original container of not more than one-half (1/2) gallon capacity or from a bulk dispenser approved for such service by the board.

(c) A person may not sell or serve pasteurized milk or a milk product that has not been maintained at a temperature required by rule adopted by the board. If containers of pasteurized milk or milk products are stored in ice, the storage container must be properly drained.

Sec. 23. (a) A person may not place or cause to be placed in a milk can or receptacle any sweepings, refuse, dirt, litter, garbage, filth, or any other animal or vegetable substance liable to decay and tending to produce or promote an unsanitary condition.

(b) A person may not allow a can or receptacle to remain uncleaned or bring or deliver to a person an uncleaned can or a receptacle for the purpose of return or bring or deliver any milk, cream, or ice cream can or receptacle for the purpose of delivery or shipment to any person or creamery engaged in selling or shipping substances for consumption as human food when the can or receptacle contains particles of milk, cream, ice cream, or other substance prohibited from being placed there.

Sec. 24. Milk and milk products from outside Indiana and not subject to the board's inspection may be sold in Indiana if the following conditions are met:

(1) The milk and milk products are produced and pasteurized

under rules that are substantially equivalent to this chapter.

(2) The milk and milk products have been awarded an acceptable milk sanitation compliance and enforcement rating made by a state milk sanitation rating officer certified by the United States Food and Drug Administration.

(3) The milk originates from an area where the unit of government accepts Indiana Grade A milk and milk products certified by an Indiana sanitation rating officer.

Sec. 25. (a) A person who is affected with a disease in a communicable form or who is a carrier of a disease may not work at a dairy farm or milk plant in any capacity that brings the person into contact with the production, handling, storage, or transportation of milk, milk products, containers, equipment, or utensils.

(b) A dairy farm or milk plant operator may not employ a person who is:

(1) affected with or who is suspected of having a communicable disease; or

(2) a carrier or who is suspected of being a carrier of a communicable disease;

in any capacity that brings the person into contact with the production, handling, storage, or transportation of milk, milk products, containers, equipment, or utensils.

(c) A producer or distributor of milk or milk products shall notify the board immediately if any of the following occur:

(1) A communicable disease occurs on the producer's or distributor's dairy farm or milk plant.

(2) The producer or distributor of milk or milk products suspects that an employee has contracted or has become a carrier of a disease in a communicable form.

Sec. 26. When reasonable cause exists to suspect the possibility of transmission of infection from a person concerned with the handling of milk or milk products, the board may require any or all of the following measures:

(1) The immediate exclusion of the person from milk handling.

(2) The immediate exclusion of the milk supply concerned from distribution and use.

(3) Adequate medical and bacteriological examination of the person, the person's associates, and their body discharges.

Sec. 27. Properly prepared plans for each milkhouse, milking barn, stable, parlor, transfer station, milk plant, milk tank truck cleaning facility, and receiving station regulated under this chapter that is constructed, reconstructed, or extensively altered must be submitted to the board for written approval before work is begun.

Sec. 28. (a) The board shall employ personnel necessary to adequately and efficiently enforce this chapter and the rules adopted under IC 4-22-2.

(b) The board may negotiate agreements with state and local governmental agencies necessary in the opinion of the board to provide for the proper administration of this chapter.

(c) The board may enter into reciprocal agreements with federal or state milk control agencies having standards substantially equivalent with this chapter and that are enforced with equal effectiveness.

Sec. 29. The board shall enforce this chapter in accordance with the rules adopted under section 14 of this chapter and IC 15-17-3-21.

Sec. 30. A person who is licensed under this chapter or who is engaged in:

(1) the production, transportation, processing, or packaging of raw or pasteurized milk and milk products;

(2) the business of selling or distributing products described in subdivision (1) for human consumption; or

(3) the business of manufacturing containers for milk and milk products;

may not prevent the inspectors and agents of the board from performing official duties.

Sec. 31. (a) The dairy drug residue abatement fund is established to implement education and other programs designed to prevent drug residue violations. Money in the fund is appropriated for these purposes.

(b) The fund consists of civil penalties collected under section 17 of this chapter.

(c) The board shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 32. The board shall enforce this chapter and for that purpose may enter upon and inspect premises on which containers are stored, suspected of being stored, or trafficked in or on premises where raw or pasteurized milk or milk products are produced, purchased, received, transferred, transported, stored, processed, or put in containers to be offered for sale or sold or distributed for human consumption.

Sec. 33. (a) A person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

Chapter 2. Milk and Cream Purchases

Sec. 1. As used in this chapter, "Babcock test" means the official Babcock test for milk and for cream.

Sec. 2. As used in this chapter, "board" refers to the creamery examining board established by section 9 of this chapter.

Sec. 3. As used in this chapter, "milk distributor" means any person or person's agent that purchases market milk or market cream from a bargaining agent or another plant for resale.

Sec. 4. As used in this chapter, "other processing plant" means any place, premises, or establishment:

(1) where milk or cream is received, processed, or manufactured; and

(2) that is not specifically identified in this chapter.

Sec. 5. As used in this chapter, unless the context otherwise indicates, "person" includes an individual, a partnership, a limited liability company, a corporation, and an association.

Sec. 6. As used in this chapter, "receiving station" means any place other than a dairy processing plant where milk or cream is received, weighed, sampled, or tested for shipment to any other processing plant.

Sec. 7. As used in this chapter, "standard Babcock testing glassware" means glassware and weights that comply with specifications for official apparatus for the Babcock method as defined in the latest edition of Official Methods of Analysis of AOAC International.

Sec. 8. The creamery license division of Purdue University, in

cooperation with the board, shall enforce this chapter.

Sec. 9. (a) The creamery examining board is established. The board consists of eight (8) members composed of the following:

(1) Three (3) producers of milk and cream.

(2) Three (3) processors of milk and cream.

(3) One (1) member of the animal sciences department who shall be appointed by the dean of agriculture of Purdue University.

(4) One (1) milk hauler.

The board shall elect a chairperson annually.

(b) Two (2) of the producer members shall be elected to the board by the Indiana Cooperative Milk Producer's Federation, Inc. The third producer member shall be elected to the board by the Indiana State Dairy Association.

(c) The three (3) processor members shall be elected to the board by the Midwest Dairy Products Association.

(d) The Midwest Dairy Products Association shall elect one (1) member each year. The Indiana federation of cooperatives shall elect a producer member to the board two (2) out of every three (3) years and the Indiana State Dairy Association shall select a producer member during the third year.

(e) The milk hauler member shall be appointed to the board by the dean of agriculture of Purdue University or the dean's designee.

Sec. 10. (a) The term of a board member is three (3) years.

(b) A vacancy in any membership of the board shall be filled by the same process for the unexpired term.

Sec. 11. Board members shall be reimbursed by the creamery license division for actual traveling expenses and subsistence while attending a regular or called meeting.

Sec. 12. The board shall do the following:

(1) Hold regular quarterly meetings and in addition meet in special called sessions at a date, time, and place designated by the chairperson.

(2) Review all cases of violation of this chapter.

(3) Recommend the revocation of any license issued under this chapter.

(4) Adopt specific rules under IC 4-22-2 relative to weighing, sampling, and testing of milk and cream and to the enforcement of the creamery license law.

Sec. 13. On recommendation of the board and with the approval of the dean of agriculture of Purdue University, inspectors of the creamery license division may inspect records or collect data on the quality of milk and cream in plants that:

(1) cooperate with Purdue University in the quality improvement program; or

(2) assist in any other project that will be of mutual benefit to the Indiana dairy industry and the Purdue University animal sciences department.

Sec. 14. (a) Milk and cream must be purchased on the basis of weight or volume and:

(1) the butterfat content;

(2) the protein content; or

(3) a combination of butterfat and protein content;

as determined by any test or tests approved by the board, which may also have been designated official by AOAC International.

(b) A payment for milk must be made either on the basis of:

(1) a fresh sample taken and tested according to procedures established under rules adopted by the board; or

(2) a composite test.

A composite sample must cover a period of not more than sixteen (16) days. In each plant, all composite samples must cover the same period for each test and succeeding periods must be as nearly equal as possible. All composite samples must cover the same period. A uniform sample consisting of at least ten (10) cubic centimeters of milk must be taken each day, except when milk is frozen or partly churned, from the milk furnished by each person. An approved preservative must be added to the sample and each composite sample must be held in an approved, rubber stoppered, airtight bottle that is plainly labeled to show the name or number of the person whose milk the composite sample represents. The milk to be sampled must be poured into a weigh tank approved by the creamery license division meeting the standards prescribed in rules, be run through a fine mesh or perforated metal strainer, and be homogeneous in richness before any sample is taken. The composite samples must be kept in a refrigerated cabinet or cooler in or near the receiving room at a temperature of not more than forty-two (42) degrees Fahrenheit, away from strong light, and must be kept free of mold. The test must be made within

seventy-two (72) hours, excluding Sundays and holidays, after the last sample has been added to the composite sample.

(c) If at the close of any composite period the composite samples are inaccurate as determined by the creamery license division, three (3) daily samples must be taken within the first five (5) days of the following composite period. The average of the three (3) fresh samples determines the basis of payment for the composite period in question.

(d) In each plant where composite samples of milk are taken, the owner or manager shall delegate an individual who is responsible for the care, condition, and accuracy of all composite samples.

(e) After the composite samples are emptied, the sample bottles must be thoroughly washed, and all bottles and rubber stoppers shall be sterilized before being used again.

(f) Composite samples may be removed from the plant for testing elsewhere only on written permission from the creamery license division.

Sec. 15. (a) A hauler of milk or cream or other person or dairy processing plant or other milk plant or agent receiving milk or cream by weight or test or by weight and test may not fraudulently manipulate the weights of milk or cream of any person to take unfair samples or fraudulently manipulate the samples.

(b) When milk is received from farm bulk tanks, the hauler shall:

(1) weigh or measure the milk of each person accurately and correctly; and

(2) thoroughly mix the milk of each person by stirring until the milk is uniform and homogeneous in richness before the sample is taken from the milk.

When the weighing or sampling of the milk or cream of each person is done at the dairy processing plant, receiving station, other factory, or other location, the same procedures for buying and paying for milk or cream on the basis of the butterfat and protein apply.

Sec. 16. A person acting alone or as the officer, servant, agent, or employee of any person buying and paying for milk or cream on the basis of the total composition of milk, the protein, or fat components of milk may not:

(1) underread, overread, or otherwise fraudulently

manipulate the test used to determine the total composition of milk or the protein and fat components of milk; or

(2) pay for milk or cream on any test except the true test of the lot or lots of milk or cream received.

Sec. 17. (a) A person or a person's agent buying or paying for milk or cream on the basis of the amount of butterfat contained in the milk or cream as determined by the Babcock test shall use standard Babcock testing glassware and accurate scales.

(b) All standard Babcock testing glassware and weights must be:

(1) inspected for accuracy by Purdue University; and

(2) legibly and indelibly marked by Purdue University with the letters "S.G.P." (Standard Glassware Purdue).

A bottle or pipette may not be used for a test unless the bottle or pipette is examined and marked by Purdue University.

(c) A person or a person's agent may not use test bottles and pipettes other than standard bottles or pipettes that have been examined and marked as provided in this section to determine the amount of fat in milk or cream bought or paid for on the butterfat basis.

(d) In conducting tests other than an approved test for determining the total composition of milk and the protein and fat components of milk, test equipment used that will influence test results must be approved by the creamery license division before use in determining producer pay tests.

Sec. 18. (a) A dairy processing plant, a receiving station, a milk shipping station, a milk factory, a milk distributor, a cheese factory, a condensery, an ice cream factory, other processing plant, person, or person's agent that handles, receives, buys, or pays for milk or cream from a producer, a bargaining agent, or another plant shall obtain a license from the creamery license division.

(b) A license must be issued to the dairy, dairy processing plant, receiving station, milk factory, milk distributor, cheese factory, condensery, ice cream factory, other processing plant, person, or person's agent by the creamery license division upon:

(1) compliance with sections 14 through 17 of this chapter; and

(2) payment of a license fee as provided in sections 22 and 23 of this chapter.

A license shall be revoked by Purdue University upon

recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

Sec. 19. (a) A person who does testing in connection with the receiving, buying, or paying for milk or cream on the basis of the total composition or the protein and fat components contained in the milk or cream, either for the person or as an officer, a servant, an agent, or an employee of any person, must hold a tester's license.

(b) A dairy processing plant, receiving station, or other factory, or person, or person's agent, that receives, buys, or pays for milk or cream on the basis of the total composition or the protein and fat components contained in the milk or cream shall employ a licensed tester to supervise and is responsible for the operation of the testing of milk or cream.

(c) A milk tester's license or cream tester's license shall be issued to a person by the creamery license division if the person:

(1) passes a satisfactory examination as provided for in the rules adopted by the board and demonstrates that the person is competent and qualified to test milk or cream; and

(2) pays a license fee as provided in section 24 of this chapter.

A license shall be revoked by the creamery license division upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

Sec. 20. (a) A person who does sampling in connection with receiving, buying, or paying for milk or cream on the basis of the total composition of milk or the protein and fat components contained in the milk or cream, either for the person, or as officer, servant, agent, or employee of any person, must hold a sampler's license.

(b) A dairy processing plant, receiving station, other factory, person, or person's agent, that receives, buys, or pays for milk or cream on the basis of the amount of butterfat contained in the milk or cream shall employ a licensed sampler to supervise and is responsible for the sampling and weighing of milk or cream to obtain a representative sample and make and record correct weights of the whole amount of milk or cream delivered.

(c) A milk sampler's license or cream sampler's license shall be issued to a person by the creamery license division if the person:

(1) passes a satisfactory examination as provided for in the

rules adopted by the board and demonstrates that the person is competent and qualified to sample milk or cream; and

(2) pays a license fee as provided in section 25 of this chapter.

A license shall be revoked by the creamery license division upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

(d) A license to test milk or cream includes the authority to sample and weigh milk or cream.

Sec. 21. (a) A person who desires to test or sample and weigh either milk or cream before taking the examination must apply to the creamery license division for a temporary permit.

(b) A temporary permit entitles the holder to test or sample and weigh milk or cream until the date specified for taking the examination. A permit holder has the same responsibilities as a licensee in complying with this chapter.

(c) An application for a temporary permit to test must be accompanied by the payment of a fee of thirty dollars ($30). An application for a temporary permit to sample or weigh must be accompanied by the payment of a fee of twenty dollars ($20). The fee shall pay for the first regular tester's or sampler's license issued to the applicant. If the applicant fails the examination or discontinues work before the examination can be given, the applicant forfeits the fee paid for the temporary permit.

Sec. 22. The creamery license division shall issue a plant license to every dairy processing plant, receiving station, milk factory, cheese factory, condensery, ice cream factory, or other person that complies with section 18 of this chapter and pays to the creamery license division seventy-five dollars ($75) plus a fee of:

(1) twelve dollars ($12) per million on milk receipts of at least ten million (10,000,000) but not more than fifty million (50,000,000) pounds;

(2) nine dollars ($9) per million on milk receipts of at least fifty million (50,000,000) but not more than one hundred million (100,000,000) pounds; and

(3) five dollars ($5) per million on milk receipts of at least one hundred million (100,000,000) pounds;

during the preceding year ending December 31. The maximum fee may not exceed one thousand dollars ($1,000) regardless of volume received. Out-of-state milk receipts are exempt from the payment

of fees.

Sec. 23. A license shall be issued to a receiving station or other milk or cream processing plant upon payment to the creamery license division a fee of twenty-five dollars ($25).

Sec. 24. A license shall be issued to an applicant for a milk tester's license or cream tester's license if the applicant:

(1) complies with section 19 of this chapter; and

(2) pays to the creamery license division a fee of fifteen dollars ($15).

Sec. 25. A license shall be issued to an applicant for a sampler's license if the applicant:

(1) complies with section 20 of this chapter; and

(2) pays to the creamery license division a fee of ten dollars ($10).

Sec. 26. A license issued under this chapter expires March 31 following its issue. A license is not transferable.

Sec. 27. The board shall establish fees for examining glassware based on the actual cost.

Sec. 28. (a) To secure sufficient funds to implement this chapter and to ensure accuracy to milk and cream producers in the weighing, sampling, and testing of milk and cream:

(1) a dairy processing plant;

(2) a receiving station;

(3) a milk factory;

(4) a milk distributor;

(5) a cheese factory;

(6) a condensery;

(7) an ice cream factory;

(8) any other processing plant; or

(9) a person purchasing fluid milk or cream in Indiana directly from producers or a producers' association or otherwise receiving milk directly from producers;

shall, during the month of May of each year, pay to the treasurer of Purdue University for the fluid milk or cream delivered during the month of May a sum equal in amount to two and one-half cents ($.025) per one hundred (100) pounds for all fluid milk purchased during that time. For the financing of the producers' share of this program, the processor shall charge the two and one-half cents ($.025) per one hundred (100) pounds back to the producer

association or cooperative. For those patrons who do not belong to producer associations or cooperatives, the processor shall make this charge directly to the individual producer. Butterfat purchased from producers other than in the form of fluid milk shall be converted for the purpose of the deduction into four percent (4%) milk equivalent. Out-of-state receipts are exempt from the payment of these fees.

(b) All persons required to make payments under this section shall make reports of all purchases of milk and cream at the times and in the form as required by the creamery license division.

(c) It is a violation of this chapter for a person to fail to make:

(1) the payments required under this section; or

(2) an accurate accounting of the amount of fluid milk and cream purchased.

Sec. 29. Payments under section 28 of this chapter shall be made to the treasurer of Purdue University not later than June 20 of each year. The money received is for the exclusive use of the creamery license division. The money shall be expended for the following:

(1) Salaries and traveling expenses of inspectors.

(2) Necessary equipment and supplies for the inspection of all plants and stations.

(3) The examination of applicants for licenses.

(4) Disseminating information and instruction by means of publication.

(5) All other expenses necessary in administering this chapter.

Sec. 30. If a person is more than thirty (30) days late paying a fee required under this chapter, the board shall assess a late fee of the greater of the following:

(1) Ten percent (10%) of the amount due.

(2) Five dollars ($5).

Sec. 31. (a) The money for license fees and for inspection fees as provided in this chapter shall be paid to the treasurer of Purdue University. The Purdue University board of trustees shall expend the collected fees, on proper vouchers to be filed with the auditor of state, in meeting all necessary expenses in carrying out this chapter, including the employment of inspectors, traveling expenses of inspectors, expenses of issuing publications, and glassware equipment, testing device, and factory inspection as provided in this chapter.

(b) The treasurer's annual report to the governor must include a classified report showing the total receipts and expenditures of all fees received under this chapter.

Sec. 32. Plants and stations covered by this chapter as listed in section 18 of this chapter (dairy processing plant and receiving station licenses) shall report before April 1 of each year the amount of milk or cream, or both, purchased during the last calendar year with the amount of butterfat in the milk or cream. Any other data or statistics desired by the creamery license division pertaining to the purchase of milk or cream must be reported to the creamery license division by the person according to and on forms furnished by the creamery license division. A person providing information under this section shall keep complete and accurate records of the person's business.

Sec. 33. (a) For purposes of this chapter, inspectors of the creamery license division may do the following:

(1) Enter at all reasonable hours all places where milk or cream is being stored, bottled, or processed, or where milk or cream is being bought, sold, or handled, to inspect records pertaining to the purchase and payment of milk or cream.

(2) Inspect and copy the records pertaining to the purchase and payment of milk or cream.

(3) Take testimony to ascertain facts pertaining to the purchase and payment of milk or cream that in the judgment of the creamery license division are necessary to administer this chapter.

(b) The board may determine the truth and accuracy of the books, records, papers, documents, accounts, and reports required to be furnished in accordance with this chapter.

Sec. 34. (a) A person or an officer, a servant, an agent, or an employee of a person may not interfere with an authorized inspector of the creamery license division who is:

(1) making an inspection; or

(2) taking a sample;

required under this chapter.

(b) A person that owns or operates or is in charge of a dairy processing plant, a receiving station, a milk factory, a cheese factory, a condensery, an ice cream factory, or other processing plant that is subject to inspection or entry by an inspector of the

creamery license division may not refuse to allow or may not obstruct an inspector's entry or inspection.

Sec. 35. A person who recklessly violates this chapter commits a Class A misdemeanor.

Chapter 3. Prohibition of Fees Assessed by Local Governments on Milk Producers

Sec. 1. As used in this chapter, "engaged in the production of milk" includes every person engaged in producing milk in Indiana or to be shipped into Indiana as a:

(1) producer;

(2) producer-distributor; or

(3) producer-cooperative.

Sec. 2. As used in this chapter, "milk" means the lacteal secretion obtained by the milking of one (1) or more cows or other dairy animals, including goats, whether in the original or in any processed form, including cream, buttermilk, and skimmed milk intended for human consumption.

Sec. 3. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, or an association.

Sec. 4. As used in this chapter, "producer" means a person who produces milk in Indiana or to be shipped into Indiana.

Sec. 5. As used in this chapter, "producer-cooperative" includes:

(1) corporations or associations organized under IC 15-12-1; or

(2) similar corporations or associations organized under agricultural cooperative marketing acts of states adjoining Indiana and admitted to do business in Indiana.

Sec. 6. As used in this chapter, "producer-distributor" includes a person that:

(1) owns, manages, or controls a dairy herd; and

(2) sells or distributes milk from the person's own herd at wholesale or retail.

Sec. 7. A unit (as defined in IC 36-1-2-23) may not assess:

(1) a permit fee;

(2) a license fee; or

(3) an inspection fee;

on a person engaged in the production of milk.

Chapter 4. Payment of Claims Against Dairy Processing Plants

Sec. 1. (a) The whole claim or a judgment for the whole claim of

a person is entitled to the same preferences in an insolvency proceeding under IC 22-2-10-1 if the claim or judgment is against:

(1) the owner or operator of a dairy plant or receiving station or any other premises where a dairy product is manufactured, processed, or handled or of any premises used to receive and ship milk or cream, except to the ultimate consumer; or

(2) any:

(A) dealer in a dairy product; or

(B) other person (except a hauler from the producer to a plant or receiving station) who purchases, assembles, or receives a dairy product for manufacturing, processing, or sale;

and the basis of the claim or judgment is milk, cream, any other dairy product or byproduct, or any commodity, the principal constituents or ingredients of which include (separately or in combination) milk, cream, or any other dairy product that is sold or delivered to the owner, operator, dealer, or other person.

(b) This section does not affect or impair any other lien or security for the claim or judgment described in subsection (a).

Chapter 5. Indiana Dairy Industry Development

Sec. 1. As used in this chapter, "board" refers to the Indiana dairy industry development board established by section 9 of this chapter.

Sec. 2. As used in this chapter, "commercial use" means sale for:

(1) retail consumption;

(2) resale; or

(3) processing for resale.

Sec. 3. As used in this chapter, "director" refers to the director of the department of agriculture or the director's designee.

Sec. 4. As used in this chapter, "milk" means any class of milk produced by dairy cows in Indiana.

Sec. 5. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

Sec. 6. As used in this chapter, "producer" means a person engaged in the production of milk in Indiana for commercial use, including a producer-processor.

Sec. 7. As used in this chapter, "producer-processor" means a producer who processes and markets the producer's own milk.

Sec. 8. As used in this chapter, "qualified program" means a state or regional dairy product promotion, research, or nutrition education program that:

(1) is certified under 7 CFR 1150.153, as amended; and

(2) meets the following requirements:

(A) Conducts activities (as defined in 7 CFR 1150.114, 7 CFR 1150.115, and 7 CFR 1150.116) intended to increase consumption of milk and dairy products.

(B) Is financed primarily by producers, either individually or through cooperative associations.

(C) Does not use a private brand or trade name in advertising and promotion of dairy products unless the national dairy promotion and research board established under 7 CFR 1150.131 and the United States Secretary of Agriculture concur that the requirement should not apply.

(D) Certifies to the United States Secretary of Agriculture that a request from a producer for a refund under the program will be honored by forwarding the part of the refund equal to the amount of credit that otherwise would be applicable to the program under 7 CFR 1150.152(c) to either the national dairy promotion and research board or a qualified program designated by the producer.

(E) Does not use program funds to influence governmental policy or action.

Sec. 9. (a) The Indiana dairy industry development board is established. The board is a public body corporate and politic and, though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.

(b) The board consists of:

(1) at least nine (9); and

(2) not more than twenty-five (25);

voting members appointed under section 12 of this chapter.

(c) Each voting member of the board must:

(1) be a resident of Indiana;

(2) be at least twenty-one (21) years of age;

(3) have been actually engaged in the production of milk in Indiana for at least one (1) year; and

(4) derive a substantial part of the member's income from the production of milk in Indiana.

(d) The board may appoint individuals who hold offices of importance to the milk industry or have special expertise concerning the industry to participate in the work of the board as nonvoting members. Not more than five (5) individuals may be appointed under this subsection.

(e) The director may participate in the activities of the board as an ex officio member.

(f) An Indiana dairy farmer selected to serve on the national dairy board shall be a nonvoting, advisory member of the board.

(g) Fewer than fifty percent (50%) of the board members, including nonvoting members, may be members of Milk Promotion Services of Indiana, Inc.

Sec. 10. (a) Before March 31 of each year, the board shall:

(1) determine:

(A) the percentage of the state's milk marketings produced by each producer registered with the state board of animal health or the United States Department of Agriculture; and

(B) the number of representatives, if any, each producer is entitled to have on the board based on funds retained in Indiana; and

(2) inform each producer described in subdivision (1)(A) of the determinations made under subdivision (1).

(b) The board shall make the determinations required under this section based upon:

(1) year end milk marketing figures from:

(A) the United States Department of Agriculture; or

(B) any other source the board considers reliable; and

(2) the formula prescribed under section 12 of this chapter.

Sec. 11. (a) Not later than thirty (30) days after receiving a notice from the board under section 10 of this chapter, a producer or group of producers entitled to representation on the board may submit nominations to the board for board members.

(b) A producer or group of producers may submit two (2) nominations for each board member to which the producer or group of producers is entitled.

Sec. 12. (a) The board shall appoint from among the nominations made under section 11 of this chapter one (1) board

member to represent each:

(1) producer who represents at least three percent (3%) of the state's participating milk marketings; and

(2) group of producers that:

(A) collectively represents at least three percent (3%) of the state's participating milk marketings; and

(B) notifies the board that the producers desire to be considered collectively for purposes of representation on the board.

(b) In addition to the members appointed under subsection (a), the board shall appoint one (1) board member to represent a producer or group of producers described in subsection (a)(2) for each additional ten percent (10%) of the state's participating milk marketings exceeding three percent (3%) that the producer or group of producers represents. Not more than four (4) board members may represent any producer or group of producers.

(c) The board shall make the appointments required under this section not later than thirty (30) days after the close of the period for submission of nominations under section 11 of this chapter.

(d) An appointment made by the board under this section may not result in a producer or group of producers having two (2) members on the board at the same time that represent the same share of the state's participating milk marketings.

(e) If a producer or group of producers entitled to representation on the board fails to submit a nomination, the board may appoint any individual who meets the requirements of section 9(c) of this chapter to represent the producer or group of producers.

Sec. 13. (a) The term of office of a board member is three (3) years.

(b) A member continues in office until a successor who meets the qualifications set forth in section 9(c) of this chapter is elected.

(c) A member may not serve for more than a total of three (3) terms.

(d) If, upon expiration of the term of a board member, the producer or group of producers that nominated the member no longer represents the percentage of the state's milk marketings required under section 12 of this chapter, a person may not be appointed to replace the board member.

Sec. 14. (a) As used in this section, "maximum daily amount" refers to the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status.

(b) Each member of the board who is not a state employee is entitled to a business per diem determined by the board.

(c) Each member of the board is also entitled to either:

(1) a per diem to cover travel and other expenses incurred in connection with the member's duties; or

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties;

as determined by the board.

(d) The business per diem allowance may not exceed the maximum daily amount allowable in the particular location where the member's duties are being performed. A mileage rate established by the board may not exceed the standard mileage rates for personally owned transportation equipment established by the United States Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the particular location where the member's duties are being performed.

Sec. 15. (a) A member's term of office terminates and the member's office becomes vacant if the member:

(1) dies;

(2) becomes disabled;

(3) resigns; or

(4) ceases to meet at least one (1) of the qualifications set forth in section 9(c) of this chapter.

(b) If a board member's office becomes vacant before expiration of the member's term of office, the board shall:

(1) certify to the producer or group of producers who nominated the member that the vacancy exists; and

(2) request nominations in accordance with section 11 of this chapter to fill the vacancy.

(c) The board shall appoint one (1) of the individuals nominated under subsection (b).

(d) An individual appointed under this section shall serve for the remainder of the unexpired term.

Sec. 16. The board shall do the following:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 17. (a) The board shall meet at least once every six (6) months.

(b) The board shall meet at a date, time, and place fixed by the board.

(c) The chairperson:

(1) may call a special meeting; and

(2) shall call a special meeting upon the request of at least twenty-five percent (25%) of the members of the board.

(d) Written notice of the date, time, and place of all meetings shall be mailed in advance to each board member.

Sec. 18. (a) A majority of voting members appointed to the board constitutes a quorum for the transaction of business.

(b) The affirmative vote of a majority of all members appointed to the board is necessary for the action of the board.

Sec. 19. At each regular meeting, the board shall review all expenditures made since the board's last regular meeting.

Sec. 20. (a) The board shall keep:

(1) minutes of the board's meetings; and

(2) other books and records that clearly reflect all the acts and transactions of the board.

(b) The records of the board required to be kept under subsection (a) shall be open to examination during normal business hours.

Sec. 21. (a) The board may contract for the necessary office space, furniture, stationery, printing, and personnel services useful or necessary for the administration of this chapter.

(b) The total administrative costs and expenses of the board may not exceed five percent (5%) of the annual assessments collected under this chapter.

Sec. 22. (a) Obligations incurred by the board and other liabilities and claims against the board may be enforced only against the assets of the board in the same manner as if it were a corporation. Liabilities for the debts or actions of the board may not arise against:

(1) the state;

(2) a political subdivision (as defined in IC 34-6-2-110); or

(3) a member, officer, employee, or agent of the board in an individual capacity.

(b) The members and employees of the board may not be held responsible individually to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) An employee of the board may not be held responsible individually for the act or omission of a member of the board.

(d) Any liability of the members of the board is several and not joint. A member of the board may not be held liable for the default of another member.

Sec. 23. (a) The board shall file a report with the director before October 1 of each year.

(b) The report required under subsection (a) must contain the following information:

(1) The income received from the assessments and penalties collected under this chapter for the preceding fiscal year.

(2) The expenditure of funds by the board during the year for the administration of this chapter.

(3) A brief description of all contracts requiring the expenditure of funds by the board and the action taken by the board on all contracts.

(4) An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the use of dairy products and the direct expense associated with each program.

(5) The name and address of each member of the board.

(6) A brief description of the rules and orders adopted by the board.

(c) The report required under subsection (a) shall be available to the public upon request.

Sec. 24. An assessment of ten cents ($0.10) per hundredweight is imposed on all milk produced in Indiana for commercial use.

Sec. 25. A producer shall remit the assessment required under section 24 of this chapter to the board:

(1) not later than the last day of the month following the month in which the milk is commercially used; and

(2) together with a report in a form approved by the board detailing all assessments collected and remitted under this chapter.

Sec. 26. The board shall deposit all assessments received under this chapter in the fund established by the board under section 28 of this chapter.

Sec. 27. The board shall establish procedures for allowing a producer to direct the distribution of the producer's assessment to:

(1) the national dairy board; or

(2) a qualified program other than the program chosen by the

board.

Sec. 28. (a) The board shall establish and administer a fund for assessments received under this chapter. The fund is not a part of the state treasury.

(b) The board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The board shall use the money in the fund to implement this chapter.

(d) The board may not use money in the fund to establish a program of its own but shall fund an active, ongoing, qualified program in Indiana as stated in 7 U.S.C. 4505 and the regulations adopted under that law. A qualified program that receives money under this subsection may use the money to jointly sponsor projects with any private or public organization for any of the following:

(1) Advertising and promotion.

(2) Market research.

(3) Nutrition and product research and development.

(4) Nutrition and educational programs.

(5) Any other activity to meet the objectives of this chapter.

Sec. 29. (a) The board shall add a penalty of one and one-half percent (1.5%) per month on an unpaid assessment, beginning with the day following the date the assessment was due. Any remaining amount due, including an unpaid penalty assessed under this section, shall be increased at the same rate on the corresponding day of each succeeding month until paid.

(b) For purposes of this section, an assessment that was determined at a date later than prescribed by section 25 of this chapter because of the failure to submit a report to the board when due shall be considered to have been payable on the date it would have been due if the report had been timely filed.

(c) The timeliness of a payment to the board shall be based on:

(1) the applicable postmarked date; or

(2) the date actually received by the board;

whichever is earlier.

Sec. 30. The board may maintain a court action to collect assessments and late payment fees due under this chapter.

Sec. 31. The remedies provided in this chapter are in addition to other remedies provided by law or in equity.

Sec. 32. A person who knowingly or intentionally violates this chapter commits a Class C misdemeanor.

SECTION 10. IC 15-19 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 19. LIVESTOCK

Chapter 1. Livestock Breeders Associations

Sec. 1. Subject to section 4(b) of this chapter, this chapter applies to a fair association described in section 2 of this chapter and organized after March 5, 1889.

Sec. 2. (a) A group of at least five (5) persons may form an incorporated company for the purpose of forming a fair association to improve the breeding and speed of stock and to promote agriculture.

(b) To form a fair association described in subsection (a), a group must adopt written articles of association that:

(1) specify the purpose of the fair association;

(2) specify the corporate name chosen for the fair association;

(3) list the name and residence of each member;

(4) contain an impression of the corporate seal; and

(5) establish the manner in which persons or officers are chosen to manage the business concerns of the fair association.

Sec. 3. Every fair association shall file its articles of association in the recorder's office of the county where the association is formed. The recorder shall record the articles of association in the miscellaneous record. The record or a certified copy of the record is conclusive evidence of the matters recited in the record. The articles may be amended at any time by a majority vote of the members of the association. The articles of association take effect on the date they are recorded in the recorder's office.

Sec. 4. (a) A fair association is a corporation from the date the articles of incorporation are filed in the appropriate recorder's office. The fair association has all the rights, powers, and privileges given to a corporation under common law, including the right to:

(1) sue and be sued;

(2) borrow money and secure payment by notes, mortgages, bonds, or deeds of trust upon its personal and real property;

and

(3) rent, lease, purchase, hold, sell, and convey real estate and personal property to the extent necessary and proper to erect buildings and other proper purposes of the corporation.

(b) If:

(1) a fair association was organized in Indiana before March 6, 1889; and

(2) the fair association met the requirements of section 2 of this chapter when it was organized;

subsection (a) applies to that association and to an association described in section 1 of this chapter.

Sec. 5. A fair association may provide in its bylaws for the admission and expulsion of members and for the election of officers as may be necessary to accomplish the goals of the corporation. A fair association may adopt bylaws for the governance of the officers and members of the corporation.

Chapter 2. Indiana Standardbred Advisory Board

Sec. 1. As used in this chapter, "board" refers to the Indiana standardbred advisory board established by section 2 of this chapter.

Sec. 2. The Indiana standardbred advisory board is established to make recommendations to the Indiana horse racing commission (IC 4-31-3-1) for the furtherance of the standardbred horse industry in Indiana.

Sec. 3. The Indiana standardbred advisory board consists of seven (7) members selected as follows:

(1) The chairman of the Indiana horse racing commission, or the chairman's designee, is an ex officio member.

(2) Two (2) members who are members of county fair boards appointed by the governor.

(3) Four (4) members appointed by the governor who have in the past participated or shown an interest in the standardbred industry. This interest may, but does not necessarily have to be, evidenced by virtue of being an owner, driver, veterinarian, trainer, or breeder.

Not more than three (3) of the appointees under subdivisions (2) and (3) may be of the same political party as the chairman of the Indiana horse racing commission.

Sec. 4. The term of a board member appointed under section

3(2) and 3(3) of this chapter is three (3) years.

Sec. 5. (a) The advisory board shall elect a chairperson, a vice chairperson, a treasurer, and other officers the board considers necessary. The chairman of the Indiana horse racing commission serves as secretary and is entitled to vote on all matters.

(b) The records of the board shall be kept by the Indiana horse racing commission.

(c) The office of the board must be at the same location as the offices of the Indiana horse racing commission.

Sec. 6. The board shall meet quarterly and at other times as the members consider necessary. Special meetings may be called by the chairperson or at the written request of at least four (4) members after presenting the written request to the secretary. Members must receive at least ten (10) days notice before any meeting.

Sec. 7. Board members, excluding the chairman of the Indiana horse racing commission, are eligible to receive a per diem on days the board is in session.

Sec. 8. (a) After considering the recommendations of the board, the Indiana horse racing commission may:

(1) conduct educational, informational, and youth programs, and sponsor and expend funds for any program and advertising aimed at promoting the standardbred industry in Indiana;

(2) employ persons to aid in general promotion or race administration programs for the standardbred industry in Indiana;

(3) prescribe standards for race programs and conditions of races, which may include types of races, length of races, positioning of entries, or gait;

(4) disburse available money to supplement purses for any individual race with a cooperating fair or standardbred race meeting;

(5) disburse available money to supplement purses for races having the requirement that the entries be owned by legal residents of Indiana; and

(6) accept and disburse donations, contributions, appropriations, or grants of money or real or personal property.

(b) After considering the recommendations of the board, the

Indiana horse racing commission shall distribute available money so that either:

(1) the division between the trotting and pacing gaits of the standardbred horse is as near equal as possible in proportion to entries received for any race program; or

(2) the entries may have been conceived by a stallion that regularly stands within Indiana and that is listed in the standardbred registry.

(c) The Indiana horse racing commission shall establish a standardbred registry.

(d) After considering the recommendations of the board, the Indiana horse racing commission shall collect fees for the registration of standardbred stallions in an amount established by the commission. However, amounts collected may not exceed five hundred dollars ($500) per stallion.

(e) After considering the recommendations of the board, the Indiana horse racing commission shall establish purses for races or to promote races if the races are open to only the offspring of standardbred stallions registered under subsection (c).

Sec. 9. All money that is disbursed as prescribed in section 8 of this chapter must be divided so that of all the money dispensed in any one (1) year:

(1) at least sixty percent (60%) is supplemented for use in prescribed programs of county and 4-H fairs; and

(2) not more than forty percent (40%) is used to supplement purses at the Indiana state fair.

Sec. 10. (a) The standardbred horse fund is established.

(b) The money received by the Indiana horse racing commission under this chapter shall be deposited in the standardbred horse fund. The standardbred horse fund is a nonbudgetary fund. Money remaining in the standardbred horse fund at the end of a state fiscal year does not revert to the state general fund.

(c) After considering the recommendations of the advisory board, the Indiana horse racing commission may disburse money from the standardbred horse fund for any purpose described in section 8 of this chapter.

(d) The Indiana horse racing commission shall pay any expense incurred in administering this chapter from the standardbred horse fund.

Chapter 3. Regulation of Horse Racing

Sec. 1. This chapter does not apply to races conducted at racetracks licensed under IC 4-31.

Sec. 2. As used in this chapter, "horse" includes a stallion, mare, filly, gelding, colt, donkey, or mule.

Sec. 3. As used in this chapter, "race" means:

(1) a speed trial for a horse; or

(2) a contest in which horses run, gallop, pace, or trot;

that is conducted either in the presence of at least fifty (50) persons or after there has been public notice that it would occur.

Sec. 4. (a) A person who knowingly, intentionally, or recklessly conducts or participates in a race not authorized under this section commits a Class B misdemeanor.

(b) A person may conduct a race only after April 14 and before November 16. A person may conduct races during not more than three (3) race meetings a year, each of which may last not more than fifteen (15) days. A person may not begin the second race meeting less than thirty (30) days after the first, or the third race meeting less than thirty (30) days after the second.

Sec. 5. A person who, with intent to stimulate or depress the performance of a horse in a race:

(1) administers a controlled substance listed in IC 35-48 to the horse less than twenty-four (24) hours before the race;

(2) injures or otherwise affects the horse; or

(3) possesses an electrical, a mechanical, or other appliance, other than a whip or spur, that can be used during the race to affect the horse;

commits a Class B misdemeanor.

Chapter 4. Racing Pigeons

Sec. 1. A person who:

(1) traps, detains, injures, or kills a pigeon, knowing that the pigeon is a racing pigeon, homer, racing homer, or homing pigeon; and

(2) is not the owner of the pigeon;

commits a Class C infraction.

Sec. 2. A person who:

(1) knowingly removes or damages any identification attached to a racing pigeon, homer, racing homer, or homing pigeon; and

(2) is not the owner of the pigeon;

commits a Class C infraction.

Chapter 5. Livestock Certification

Sec. 1. As used in this chapter, "administrator" means the governor or the governor's designee.

Sec. 2. As used in this chapter, "buyer" means a buyer of livestock bought for direct shipment to a person in a foreign country.

Sec. 3. As used in this chapter, "livestock" means any animal or fowl raised for commercial purposes.

Sec. 4. The administrator may certify that certain livestock, bovine semen, or embryos meet the specifications of a buyer of that livestock, bovine semen, or embryos.

Sec. 5. The administrator shall charge a fee to cover the costs of certification under this chapter.

Sec. 6. The administrator has the powers necessary to carry out this chapter.

Sec. 7. The administrator and the state are immune from liability for lawful actions taken under this chapter.

Sec. 8. A person who intentionally or knowingly forges a certification or the identification of livestock, bovine semen, or embryos certified under this chapter commits a Class D felony.

Chapter 6. Livestock Brands

Sec. 1. IC 15-17-17 (hearings) applies to this chapter.

Sec. 2. As used in this chapter, "board" refers to the Indiana state board of animal health established by IC 15-17-3-1.

Sec. 3. As used in this chapter, "brand" means a distinctive design or mark of identification made or applied to the hide on livestock by the use of a hot iron or by any other method or process approved by the board.

Sec. 4. As used in this chapter, "livestock" means:

(1) all cattle or animals of the bovine species;

(2) all horses, mules, burros, and asses or animals of the equine species;

(3) all swine or animals of the porcine species; and

(4) all goats or animals of the caprine species.

Sec. 5. As used in this chapter, "person" includes an individual, a firm, an association, a partnership, a corporation, other legal entity, a public or private institution, the state, a municipal

corporation, or a political subdivision of the state.

Sec. 6. A person owning livestock within Indiana may adopt a brand for the person's exclusive use in Indiana. A person may not brand or cause to be branded any livestock with a brand that is of legal record in the office of the board unless that brand has been certified by the board for that person's exclusive use.

Sec. 7. The board shall record livestock brands. The board shall implement this chapter and may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 8. (a) An owner of livestock in Indiana who wants to adopt a brand for the owner's exclusive use shall, before doing so, forward to the board an application on a form approved and provided by the board.

(b) For purposes of this chapter, the post office address included in an application under this section is considered the legal address of the applicant. Until the board receives a written notice of change of address from the applicant, the latest address of record with the board remains the legal address.

(c) If the brand is accepted, the board shall file the brand in the official brand book, furnish the applicant a brand certificate, and inform the applicant that the applicant has, from the date of filing, exclusive right to the use of the brand in Indiana.

(d) Additional brand certificates of a recorded brand may be obtained from the board upon the payment of a fee established by the board under section 18 of this chapter.

Sec. 9. (a) Only one (1) brand may be awarded or recorded for each owner of livestock. However, the owner or owners of separate and distinct livestock operations may, at the discretion of the board, record one (1) brand for use at each distinct and separate livestock operation.

(b) A brand may not be recorded or used if the brand:

(1) is identical with or, in the opinion of the board, is so similar to any brand previously recorded and remaining of legal record; or

(2) is an abandoned brand but has not been abandoned for five (5) years;

so as to be liable to cause confusion as to the identity or ownership of livestock.

(c) If the board determines that the submitted brand is already

on record for another person or that it so closely resembles a previously registered brand that the brands cannot be readily distinguished, the board shall notify the applicant and return the facsimile brand and recording fee. In case of duplications, applications bearing the earliest postmark will be accepted.

(d) The board shall adjust conflicting stock brands and make any necessary changes. Changes made by the board are conclusive, and brands the board indicates may be recalled or adjusted at any time by means of written notice from the board given to the owner of the brand.

(e) A brand may be recorded in Indiana only in the office of the board.

Sec. 10. All certificates of recordation or rerecordation of brands furnished by the board are prima facie evidence of the ownership of all livestock of the kind or kinds bearing the brand or brands specified and as set forth in the record. The certificates are evidence of ownership in all lawsuits or in any criminal proceedings, when the title to livestock in Indiana is to be proved. Disputes in ownership or custody of branded livestock shall, upon request, be investigated by state or county law enforcement officials.

Sec. 11. (a) A recorded brand is the personal property of the person in whose name it is filed and is subject to sale, assignment, transfer, devise, and descent as personal property.

(b) A written instrument that evidences the sale, assignment, or transfer of a brand must be forwarded to the board to be recorded in the official brand book.

(c) The board shall determine the fee for recording a transaction under subsection (b).

(d) As soon as the transaction has been recorded, the board shall furnish the new owner with a brand certificate.

Sec. 12. (a) By January 1 of each fifth year following the original recording with the board, each owner of a brand of record shall submit to the board a renewal fee to be established by the board.

(b) For the purpose of determining the renewal date, the period between the date a brand is recorded by the board and January 1 of the next year constitutes the first year of the five (5) year period.

(c) If the owner of a brand of record fails, refuses, or neglects to pay the fee by June 30 of the year in which it is due, the brand shall

be forfeited and no longer carried in the record. A forfeited brand may not be issued to another person for five (5) years after the date of forfeiture. During that five (5) year period, the former owner of record may apply to the commission for reinstatement of the forfeited brand. An application for reinstatement must be accompanied by a reinstatement fee established by the board. The renewal date for a reinstatement brand remains the same.

(d) Renewal fees on reinstatement brands are due on January 1 of each fifth year following the original recording.

Sec. 13. (a) Except as otherwise provided by this section, a person may not use any brand for identifying livestock unless the brand has been recorded under this chapter. If a recorded brand is applied to livestock that have been branded by a previous owner, the recorded brand must be applied so as not to overlap, obliterate, disfigure, or mutilate the existing brand or brands.

(b) Brands consisting of arabic numerals only may be used for individual livestock identification if they are located at least ten (10) inches from any recorded brand. Brands for individual identification may not be recorded.

Sec. 14. (a) The board shall publish all the recorded brands in a book and publish supplemental lists at least once each year. The brand book and supplements must contain a facsimile of all brands recorded, together with the owner's name and legal mailing address.

(b) The board shall, without charge, furnish copies of the brand book and supplements to state and county law enforcement agencies in Indiana. The general public may obtain copies by remitting to the board the cost of printing and mailing each book and accompanying supplements.

Sec. 15. The board, in cooperation with law enforcement officials in Indiana and other states, shall develop a uniform procedure for notifying livestock markets and livestock slaughtering establishments of reported livestock thefts.

Sec. 16. A brand must be applied to the shoulder, ribs, or hip on either the right or left side as determined by standing behind the animal. A brand, except those for livestock disease control purposes, may not be applied to the head or neck area.

Sec. 17. (a) A person selling livestock branded with the person's brand recorded in a current state brand book or supplement shall

execute to the purchaser a written bill of sale. The bill of sale must include:

(1) the signature and residence of the seller;

(2) the name and address of the purchaser;

(3) the total number of livestock sold;

(4) a description of each animal sold as to sex and kind; and

(5) all registered brands.

A copy of the bill of sale shall be given to each hauler of livestock, other than railroads, and must accompany the shipment of livestock while in transit. The bill of sale or a copy shall be shown by the possessor on demand to any law enforcement officer. The bill of sale is prima facie evidence of the conveyance of title of the livestock described by the bill of sale.

(b) A person engaged in the business of transporting or hauling livestock in Indiana shall, upon receiving livestock for transportation, issue a waybill or bill of lading for all livestock transported or hauled by the person. The waybill or bill of lading must accompany the shipment of livestock, with a copy being furnished to the person delivering livestock to the hauler. The waybill or bill of lading must include:

(1) the place of origin and destination of the shipment;

(2) the name of the owner of the livestock;

(3) the date and time of loading;

(4) the name of the person or company hauling the livestock;

(5) the number of livestock; and

(6) a general description of the livestock, including the identifying brands.

The waybill or bill of lading must be signed by the person delivering the livestock to the hauler, certifying that the information contained in the waybill or bill of lading is correct.

Sec. 18. (a) The board may establish and collect:

(1) up to thirty-five dollars ($35) for each brand recording; and

(2) fair and reasonable charges related to the cost of administering a brand recordation program for:

(A) the rerecording of brands;

(B) the recording of instruments transferring ownership of brands; and

(C) certificates of recordation or rerecordation of brands.

(b) The board shall deposit fees collected under this section in the brand registration fund. The brand registration fund is a nonbudgetary fund, and the money remaining in the brand registration fund at the end of a state fiscal year does not revert to the state general fund. The board may disburse money from the brand registration fund to defray the administrative costs of implementing this chapter.

Sec. 19. A person who, without permission of the owner, knowingly or intentionally applies a brand to livestock for the purpose of transferring ownership of that livestock commits a Class C felony.

Sec. 20. A person who knowingly destroys or alters a brand recorded with the board from livestock to conceal the identity of the owner of that livestock commits a Class C felony.

Sec. 21. A person who knowingly sells or offers for sale livestock whose brand has been destroyed or altered for the purpose of concealing the identity of the owner of that livestock commits a Class C felony.

Sec. 22. A person who knowingly purchases livestock whose brand has been destroyed or altered for the purpose of concealing the identity of the owner of that livestock commits a Class C felony.

Sec. 23. A livestock brand is a written instrument for purposes of IC 35-43-5.

Chapter 7. Commercial Feed

Sec. 1. As used in this chapter, "brand name" means a word, name, symbol, or device or any combination of words, names, symbols, or devices that identifies the commercial feed of a distributor and distinguishes it from that of other distributors.

Sec. 2. As used in this chapter, "commercial feed" means all materials that are distributed for use as feed or for mixing in feed. The term does not include the following unless adulterated within the meaning of section 29(1) of this chapter:

(1) Unmixed whole seeds.

(2) Unmixed, physically altered whole seeds that have not been chemically altered.

(3) Commodities, compounds, or substances excluded by rules adopted by the state chemist under IC 4-22-2 in accordance with section 34 of this chapter.

Sec. 3. As used in this chapter, "custom mixed feed" means

commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is mixed to meet the request of the final purchaser that the mixture contain a specific content of ingredients, nutrients, or nonnutritive additives.

Sec. 4. As used in this chapter, "distribute" means to offer for sale, sell, exchange, barter, or otherwise supply a commercial feed.

Sec. 5. As used in this chapter, "distributor" means a person who distributes.

Sec. 6. As used in this chapter, "drug" means:

(1) an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; or

(2) an article other than feed intended to affect the structure or any function of the animal body.

Sec. 7. As used in this chapter, "feed ingredient" means each of the constituent materials making up a commercial feed.

Sec. 8. As used in this chapter, "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

Sec. 9. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

(1) upon a commercial feed or its containers or wrappers; or

(2) accompanying a commercial feed.

Sec. 10. As used in this chapter, "manufacture" means to grind, mix, blend, or further process a commercial feed for distribution.

Sec. 11. As used in this chapter, "mineral feed" means a commercial feed, the primary purpose of which is to supply mineral elements and inorganic nutrients.

Sec. 12. As used in this chapter, "official sample" means a sample of feed taken by the state chemist or the chemist's agent in accordance with section 35(c) or 36 of this chapter.

Sec. 13. As used in this chapter, "percent" or "percentage" means percentage by weight.

Sec. 14. As used in this chapter, "person" includes individuals, partnerships, limited liability companies, corporations, and associations.

Sec. 15. As used in this chapter, "pet" means a domesticated animal normally maintained in or near the household of its owner.

Sec. 16. As used in this chapter, "pet food" means a commercial feed prepared and distributed for consumption by dogs or cats.

Sec. 17. As used in this chapter, "product name" means the name of the commercial feed that identifies it as to kind, class, or specific use.

Sec. 18. As used in this chapter, "specialty pet" means a domesticated animal normally maintained in a cage or tank, including a gerbil, hamster, bird, fish, and turtle.

Sec. 19. As used in this chapter, "specialty pet food" means a commercial feed prepared and distributed for consumption by specialty pets.

Sec. 20. As used in this chapter, "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

Sec. 21. This chapter shall be administered by the state chemist.

Sec. 22. The state chemist may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out this chapter.

Sec. 23. The state chemist shall publish at least annually, in a form that the state chemist considers proper:

(1) information concerning the distribution of commercial feeds, together with data on their production and use that the state chemist considers advisable; and

(2) a report of the results of the analyses of official samples of commercial feeds distributed within Indiana.

However, the information concerning production and use of commercial feed may not disclose the operations of any person.

Sec. 24. (a) A person who manufactures a commercial feed or whose name appears on the label of a commercial feed may not distribute the commercial feed in Indiana without a commercial feed license issued by the state chemist on a form provided by the state chemist.

(b) An out-of-state distributor may not cause a commercial feed to be distributed in Indiana without a commercial feed license issued by the state chemist on a form provided by the state chemist.

(c) A commercial feed license is issued for a calendar year and expires December 31 of the year for which the license was issued. Commercial feed license fees are as follows:

(1) The filing fee for a new or renewal license is fifty dollars

($50).

(2) A late filing fee of fifty dollars ($50) shall be added to the filing fee for renewing a commercial feed license if the application for renewal is received after January 16.

(d) The form and content of commercial feed license applications shall be established by rules adopted by the state chemist under IC 4-22-2, in accordance with section 34 of this chapter.

Sec. 25. The state chemist may refuse an application for a commercial feed license that does not comply with this chapter and may cancel a commercial feed license that is not in compliance with this chapter. However, a commercial feed license may not be refused or canceled unless the applicant or licensee has been given an opportunity to be heard before the state chemist and to amend the applicant's or licensee's application in order to comply with this chapter.

Sec. 26. A commercial feed, except a custom mixed feed, must be accompanied by a label bearing the following information:

(1) The net weight.

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

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

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

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

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

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

commercial feed.

(6) Adequate directions for use for:

(A) commercial feeds containing drugs; and

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

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

Sec. 27. Custom mixed feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

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

(5) Adequate directions for use for:

(A) custom mixed feeds containing drugs; and

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

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

Sec. 28. A commercial feed is considered misbranded if any of the following conditions exist:

(1) Its labeling is false or misleading in any particular.

(2) It is distributed under the name of another commercial feed.

(3) It is not labeled as required by section 26 or 27 of this chapter.

(4) It appears to be or is represented as a commercial feed, or it appears to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed

by rule by the state chemist.

(5) Any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with sufficient conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in sufficient terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Sec. 29. A commercial feed is considered adulterated if it meets any of the following conditions:

(1) It contains a poisonous or deleterious substance that may render it injurious to health. However, if the substance is not an added substance, the commercial feed is not considered to be adulterated under this subdivision if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

(2) It contains an added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) other than one that is:

(A) a pesticide chemical in or on a raw agricultural commodity; or

(B) a food additive.

(3) It is, or it contains, a food additive that is unsafe within the meaning of Section 409 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

(4) It is a raw agricultural commodity and it contains a pesticide chemical that is unsafe within the meaning of Section 408(a) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)). However, if a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) and the raw agricultural commodity has been subjected to processing, such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed is not considered unsafe if:

(A) the residue in or on the raw agricultural commodity

has been removed to the extent possible in good manufacturing practice;

(B) the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity; and

(C) the feeding of the processed feed will not result, or is not likely to result, in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408(a) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)).

(5) It is, or it contains, a color additive that is unsafe within the meaning of Section 706 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e).

(6) It is, or it contains, an animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

(7) If any valuable constituent has been in whole or in part omitted or removed from the commercial feed or any less valuable substance has been substituted for a valuable constituent.

(8) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(9) It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules adopted by the state chemist to ensure that the drug:

(A) meets the requirement of this chapter as to safety; and

(B) has the identity and strength, and meets the quality and purity characteristics that it is represented to possess.

In adopting these rules, the state chemist shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), unless the state chemist determines that they are not appropriate to the conditions that exist in Indiana.

(10) It contains viable weed seeds in amounts exceeding the limits the state chemist establishes by rule.

Sec. 30. (a) A distributor shall pay to the state chemist an inspection fee at the rate of forty cents ($0.40) per ton on all commercial feeds shipped into or within Indiana, subject to the following:

(1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(2) No fee shall be paid on a custom mixed feed if the inspection fee has been paid on all of the commercial feeds that are ingredients of the custom mixed feed.

(3) On commercial feeds that contain ingredients on which the inspection fee has already been paid, credit shall be given for that payment.

(4) The minimum inspection fee is five dollars ($5) per quarter if a quarterly feed tonnage report is required under section 31 of this chapter.

(b) In the case of a pet food or a specialty pet food that is distributed in Indiana in packages of ten (10) pounds or less, an annual inspection fee of fifty dollars ($50) shall be paid instead of the tonnage inspection fee specified in subsection (a).

Sec. 31. (a) Except as provided in subsection (b), a distributor who is liable for the payment of the tonnage inspection fee under section 30 of this chapter shall file quarterly tonnage reports setting forth the number of net tons of commercial feeds distributed in Indiana during the preceding calendar quarter. The distributor shall file the reports not later than January 31, April 30, July 31, and October 31 of each year. Upon filing a report, the distributor shall pay the inspection fee at the rate stated in section 30 of this chapter. Inspection fees that are due and owing and have not been remitted to the state chemist within fifteen (15) days after the due date shall be increased by a penalty fee of ten percent (10%) of the amount due or fifty dollars ($50), whichever is greater. The assessment of this penalty fee does not prevent the state chemist from taking other actions under this chapter.

(b) A resident of Indiana who only manufactures and distributes custom mixed commercial feeds and has met the requirements of section 30 of this chapter is exempt from filing quarterly feed tonnage reports.

(c) A distributor who is subject to the inspection fees for small packaged pet and specialty pet foods distributed in containers of

ten (10) pounds or less under section 30 of this chapter shall do the following:

(1) Before beginning distribution, file with the state chemist a listing of small packaged pet and specialty pet foods to be distributed in Indiana in containers of ten (10) pounds or less, on forms provided by the state chemist. The listing under this subdivision shall be renewed annually before January 1 of each year and is the basis for the payment of the annual inspection fee of fifty dollars ($50) per product. New products added during the year must be submitted to the state chemist as a supplement to the annual listing before distribution.

(2) If the annual renewal of the listing is not received before January 16 or if an unlisted product is distributed, pay a late filing fee of ten dollars ($10) per product in addition to the normal charge for the listing. The late filing fee under this subdivision is in addition to any other penalty under this chapter.

Sec. 32. (a) Each person required to pay an inspection fee or to report under this chapter shall keep records that are necessary or required by the state chemist to accurately indicate the tonnage of commercial feed or the number of small packaged pet and specialty pet products distributed in Indiana. The state chemist or the state chemist's agent may examine the records to verify statements of tonnage.

(b) Failure to:

(1) make an accurate statement of tonnage;

(2) make an accurate listing of small packaged pet or specialty pet products;

(3) pay the inspection fee; or

(4) accurately report any of the information required to be submitted under this chapter;

is sufficient cause to cancel the commercial feed license of the person who fails to act or falsifies information under this subsection.

Sec. 33. (a) Fees collected by the state chemist under this chapter shall be paid to the treasurer of Purdue University. The board of trustees of Purdue University shall expend the money received under this section on proper vouchers in meeting all necessary expenses in carrying out this chapter, including:

(1) the employment of inspectors and chemists;

(2) other expenses of the work of feed inspection as provided for by this chapter; and

(3) any other expenses of Purdue University agricultural programs authorized by law and in support of the purposes of this chapter.

(b) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

Sec. 34. (a) Subject to subsection (b), and in the manner provided by IC 4-22-2, the state chemist may adopt:

(1) rules for commercial feeds and pet foods as specifically authorized in this chapter; and

(2) other reasonable rules necessary for the efficient enforcement of this chapter.

(b) In the interest of uniformity, the state chemist shall adopt the following by rule unless the state chemist determines that the following are inconsistent with this chapter or are not appropriate to conditions that exist in Indiana:

(1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization.

(2) Any regulation promulgated under the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) if the state chemist would have the authority under this chapter to adopt such a rule.

(c) The state chemist may adopt rules under IC 4-22-2 to exclude from the definition of "commercial feed" commodities, such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when the commodities, compounds, or substances are not intermixed or mixed with other materials.

(d) The state chemist may adopt rules under IC 4-22-2 to require copies of labels and labeling.

Sec. 35. (a) Upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, officers or employees designated by the state chemist may:

(1) during normal business hours, enter:

(A) a factory, warehouse, or establishment in Indiana in

which commercial feeds are manufactured, processed, packed, or held for distribution; and

(B) a vehicle being used to transport or hold commercial feeds; and

(2) at reasonable times, within reasonable limits, and in a reasonable manner, inspect such a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling;

to enforce this chapter and to determine compliance with this chapter, including whether or not any operations are subject to this chapter. In determining compliance with good manufacturing practice rules adopted under section 29(9) of this chapter, the inspection may include the verification of only the records and production and control procedures necessary to determine compliance with those rules.

(b) A separate notice shall be given for each inspection, but a notice is not required for each entry made during the period covered by the inspection. Each inspection must begin and be completed with reasonable promptness. The person in charge of the facility or vehicle shall be notified upon completion of the inspection.

(c) An officer or employee who inspects a factory, warehouse, or other establishment and obtains a sample in the course of the inspection shall, upon completion of the inspection and before leaving the premises, give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(d) The state chemist shall forward the results of analyses of official samples to the person named on the label and to the person in whose possession the sample was taken. If the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, and upon request within thirty (30) days following receipt of the analysis, the state chemist shall furnish to the registrant a portion of the sample concerned.

(e) The state chemist, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample obtained and analyzed as provided for in subsection (c) and section 36 of this chapter.

Sec. 36. (a) For the purpose of the enforcement of this chapter, the state chemist or the state chemist's agent may enter upon any

public or private premises, including any vehicle of transport, during regular business hours to have access to, and to obtain samples and examine records relating to distribution of commercial feeds.

(b) Sampling and analysis under this chapter shall be conducted in accordance with methods published by AOAC International or in accordance with other generally recognized methods.

Sec. 37. If the owner of a factory, warehouse, or establishment described in section 35(a) of this chapter or the owner's agent refuses to admit the state chemist or the state chemist's agent to inspect in accordance with section 35(a) and 35(b) of this chapter, the state chemist may obtain from any state court a warrant directing the owner or the owner's agent to submit the premises described in the warrant to inspection.

Sec. 38. If the state chemist or the state chemist's agent has reasonable cause to believe that a lot of commercial feed is being distributed in violation of this chapter or a rule adopted under this chapter, the state chemist or agent may issue and enforce a written or printed "stop sale or withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the state chemist or a court. The state chemist shall release the lot of commercial feed when the distributor has complied with this chapter and the rules adopted under this chapter. If compliance is not obtained within thirty (30) days, the state chemist may begin, or upon request of the distributor or licensee shall begin, proceedings for condemnation under section 39 of this chapter.

Sec. 39. A lot of commercial feed that is not in compliance with this chapter or a rule adopted under this chapter is subject to seizure on complaint of the state chemist to a court with jurisdiction in the county in which the commercial feed is located. If the court finds the commercial feed is in violation of this chapter and orders the condemnation of the commercial feed, the commercial feed shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of Indiana. However, the disposition of the commercial feed may not be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to

bring it into compliance with this chapter.

Sec. 40. A person commits a Class C infraction if the person knowingly engages in any of the following:

(1) The manufacture or distribution of a commercial feed that is adulterated or misbranded.

(2) The adulteration or misbranding of a commercial feed.

(3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, that are adulterated within the meaning of section 29(1) of this chapter.

(4) The removal or disposal of a commercial feed in violation of an order under section 38 or 39 of this chapter.

(5) The failure to obtain a commercial feed license under section 24 of this chapter.

(6) The failure to pay inspection fees or file reports as required by section 30 or 31 of this chapter.

Sec. 41. A person who impedes, hinders, or otherwise prevents the state chemist or the state chemist's agent in performance of the state chemist's duty under this chapter commits a Class C infraction.

Sec. 42. This chapter does not require the state chemist or the state chemist's agent to:

(1) report for prosecution;

(2) institute seizure proceedings; or

(3) issue a withdrawal from distribution order;

as a result of minor violations of the chapter if the state chemist or the state chemist's agent believes the public interest will best be served by suitable notice of warning in writing.

Sec. 43. A prosecuting attorney to whom a violation of this chapter or a rule adopted under this chapter is reported shall consider the institution and prosecution of appropriate proceedings in a court with jurisdiction without delay. However, before the state chemist reports a violation for prosecution, the state chemist shall give an opportunity to the distributor to present the distributor's view to the state chemist.

Sec. 44. The state chemist may apply for and the appropriate court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or a rule adopted under this chapter, notwithstanding the existence of

other remedies at law. The injunction may be issued without bond.

Sec. 45. A person adversely affected by an act, an order, or a ruling made under this chapter, other than the penalty provisions of this chapter, may not later than forty-five (45) days after the date of the act, order, or ruling bring an action in a court with jurisdiction for judicial review. The proceeding must be brought under IC 4-21.5 or, if IC 4-21.5 is inadequate, the proceeding must be brought as an applicable legal action, including an action for declaratory judgment or as a prohibitory or mandatory injunction.

Sec. 46. A person who recklessly uses to the person's own advantage or recklessly reveals to persons other than the state chemist, an agent of the state chemist, or to the courts when relevant in any judicial proceeding any information acquired under this chapter concerning any method, records, formulations, or processes entitled to protection as a trade secret commits a Class B misdemeanor. However, this does not prohibit the state chemist or the state chemist's agent from exchanging information of a regulatory nature with officials of the United States government or of other states who are also prohibited by law from revealing protected information.

SECTION 11. IC 15-20 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 20. ANIMAL CONTROL

Chapter 1. Liability for Dog Bites

Sec. 1. This chapter does not limit the power of an agency of the state or a political subdivision to adopt a rule or an ordinance that does not conflict with this chapter.

Sec. 2. As used in this chapter, "owner" means the owner of a dog. The term includes a person who possesses, keeps, or harbors a dog.

Sec. 3. (a) If a dog, without provocation, bites a person:

(1) who is acting peaceably; and

(2) who is in a location where the person may be required to be in order to discharge a duty imposed upon the person by:

(A) the laws of Indiana;

(B) the laws of the United States; or

(C) the postal regulations of the United States;

the owner of the dog is liable for all damages suffered by the

person bitten.

(b) The owner of a dog described in subsection (a) is liable for damages even if:

(1) the dog has not previously behaved in a vicious manner; or

(2) the owner has no knowledge of prior vicious behavior by the dog.

Sec. 4. (a) Except as provided in subsection (b), the owner of a dog commits a Class C misdemeanor if:

(1) the owner recklessly, knowingly, or intentionally fails to take reasonable steps to restrain the dog;

(2) the dog enters property other than the property of the dog's owner; and

(3) as the result of the owner's failure to restrain the dog, the dog bites or attacks another person without provocation, resulting in bodily injury to the other person.

(b) The offense under subsection (a) is:

(1) a Class B misdemeanor if the person has been convicted of one (1) previous unrelated violation of this section;

(2) a Class A misdemeanor if:

(A) the person has been convicted of more than one (1) previous unrelated violation of this section; or

(B) the violation results in serious bodily injury to a person;

(3) a Class D felony if the owner recklessly violates this section and the violation results in the death of a person; and

(4) a Class C felony if the owner intentionally or knowingly violates this section and the violation results in the death of a person.

(c) This subsection does not apply to a nonaggressive dog that goes beyond the owner's premises onto agricultural or forested land. An owner of a dog commits a Class D infraction if the owner of the dog allows the dog to stray beyond the owner's premises, unless the dog is under the reasonable control of an individual or the dog is engaged in lawful hunting and accompanied by the owner or a custodian of the dog. However, the offense is a Class C infraction if the owner has a prior unrelated judgment for a violation of this subsection.

Sec. 5. (a) The following definitions apply throughout this section:

(1) "Coydog" means:

(A) an animal that is the offspring of a coyote and another animal; or

(B) an animal that is the offspring of:

(i) an animal that is the offspring of a coyote and another animal; and

(ii) another animal.

(2) "Secure enclosure" means an outdoor pen that is:

(A) roofed or that has sides at least six (6) feet tall; and

(B) constructed in such a manner that the type of animal contained within the pen cannot reasonably be expected to escape.

(3) "Wolf hybrid" means:

(A) an animal that is the offspring of a wolf and another animal; or

(B) an animal that is the offspring of:

(i) an animal that is the offspring of a wolf and another animal; and

(ii) another animal.

(b) An owner of a wolf hybrid or coydog shall:

(1) keep the animal in a building or secure enclosure; or

(2) keep the animal:

(A) under the reasonable control of an individual; and

(B) on a leash not more than eight (8) feet in length.

Subject to subsections (c) and (d), an owner who does not comply with this subsection commits a Class B infraction. An owner who merely tethers or chains a coydog or wolf hybrid does not comply with this subsection.

(c) Subject to subsection (d), an owner of a wolf hybrid or coydog commits a Class B misdemeanor if the owner recklessly, knowingly, or intentionally fails to comply with subsection (b) and:

(1) the wolf hybrid or coydog enters property other than the property of the owner; and

(2) the wolf hybrid or coydog causes damage to livestock or the personal property of another individual.

(d) The offense under subsection (c) is:

(1) a Class A misdemeanor if the owner has one (1) prior unrelated conviction under this section;

(2) a Class D felony if:

(A) the owner has more than one (1) prior unrelated conviction for a violation under this section; or

(B) the owner knowingly, intentionally, or recklessly fails to comply with subsection (b) and the failure to comply results in serious bodily injury to a person; and

(3) a Class C felony if the owner knowingly, intentionally, or recklessly fails to comply with subsection (b) and the failure to comply results in the death of a person.

(e) Notwithstanding IC 36-1-3-8(a), a unit (as defined in IC 36-1-2-23) may adopt an ordinance:

(1) prohibiting a person from possessing a wolf hybrid or coydog; or

(2) imposing:

(A) a penalty of more than one thousand dollars ($1,000) up to the limits prescribed in IC 36-1-3-8(a)(10)(B) for a violation of subsection (b); or

(B) conditions on the possession of a wolf hybrid or coydog that are more stringent than the provisions of subsection (b).

Sec. 6. An owner of a dog is exempt under section 4 of this chapter if the dog commits an act described in section 4 of this chapter during the period that the dog is owned by:

(1) the United States;

(2) an agency of the United States; or

(3) a governmental entity (as defined in IC 34-6-2-49);

and the dog is engaged in assisting the owner or the owner's agent in the performance of law enforcement or military duties.

Sec. 7. If a law enforcement officer or any other person having authority to impound animals has probable cause to believe that there has been a violation of section 4 of this chapter, IC 35-46-3-6 applies.

Chapter 2. Livestock Killing Dogs

Sec. 1. If a dog kills or injures any livestock while the livestock is in the care, custody, and control of the livestock's owner or the owner's agent, the owner or harborer of the dog is liable to the owner of the livestock for all damages sustained, including reasonable attorney's fees and court costs.

Sec. 2. A person who observes a dog in the act of killing or injuring livestock may kill the dog if the person has the consent of

the person in possession of the real estate on which the dog is found.

Sec. 3. (a) The following losses and expenses are chargeable to the county in which an attack or exposure occurs:

(1) Damages, less compensation by insurance or otherwise, sustained by the owner of the following stock, fowl, or game killed, maimed, or damaged by a dog:

(A) Sheep.

(B) Cattle.

(C) Horses.

(D) Swine.

(E) Goats.

(F) Mules.

(G) Chickens.

(H) Geese.

(I) Turkeys.

(J) Ducks.

(K) Guineas.

(L) Tame rabbits.

(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.

(N) Bison.

(O) Farm raised cervidae.

(P) Ratitae.

(Q) Camelidae.

(2) The expense of rabies post exposure prophylaxis that is incurred by any person who is bitten by or exposed to a dog known to have rabies.

(b) Damages are not chargeable to a county under this section for sheep except those claims in which individual damage exists or is shown.

Sec. 4. (a) A county auditor shall establish procedures in accordance with the requirements of sections 3(a) and 6 of this chapter by which a claimant may submit a claim to the county auditor or a designee of the county auditor.

(b) A county auditor who:

(1) receives a verified claim under section 3(a) from a claimant; and

(2) is satisfied that the claim meets the requirements of sections 3(a) and 6 of this chapter;

shall immediately issue a warrant or check to the claimant for the verified amount of the claim. If a county option dog tax adopted under IC 6-9-39 is not in effect in the county, a claim under this section may be paid out of nonappropriated funds. A county auditor who is not satisfied that a claim meets the requirements of sections 3(a) and 6 of this chapter shall promptly notify the claimant.

(c) A person whose claim under section 3(a) is denied by a county auditor may file an action in a court with jurisdiction to determine whether the county auditor acted in conformance with the requirements of this section and sections 3 and 6 of this chapter. If the court determines that the county auditor failed to comply with the requirements of this section or sections 3 and 6 of this chapter in evaluating the person's claim, the court may fashion an appropriate remedy, including an order directed to the county auditor to reconsider the person's claim.

Sec. 5. A person requiring the treatment described in section 3(a)(2) of this chapter may select the person's own physician.

Sec. 6. (a) An owner desiring to make a claim under section 3(a)(1) of this chapter must do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Not more than twenty (20) days after the time of the loss, report the loss to the county auditor as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages sustained, less compensation by insurance or otherwise.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the

freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) An appraisal of the stock, fowl, or game that were killed, maimed, or damaged may not exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value may not exceed the slaughter value.

(D) The owner shall provide verification of the loss by an officer described in subdivision (1).

(E) Payment for a loss for property owned by a claimant on the last property tax assessment date may not be paid if the property was not reported by the owner for assessment purposes at that time.

(b) In addition to the requirements of subsection (a), the claimant, if requested to do so by the county auditor or a person designated by the county auditor, must grant the right of subrogation to the county for the total amount paid on the claim to the claimant by the county on a form prescribed by the county auditor.

Sec. 7. (a) An officer who receives notice under section 6(a)(1) of this chapter shall visit the scene of the loss, verify the loss in writing, and mark each killed, maimed, or damaged animal so that the animal can support only one (1) claim under this chapter.

(b) A person desiring to make a claim under section 3(a)(2) of this chapter must provide the county auditor with documentation that the person, or a person for whom the claimant is financially responsible, underwent rabies post exposure prophylaxis.

Chapter 3. Sale of Dogs to Laboratories

Sec. 1. This chapter applies to the sale of dogs to the following:

(1) Research laboratories.

(2) A laboratory that uses animals for the production of medicines or other products.

Sec. 2. A person who sells a dog to a laboratory must show a valid bill of sale for the dog from:

(1) a breeder or kennel;

(2) an animal control facility; or

(3) a private individual;

to the individual who purchases animals for the laboratory.

Sec. 3. A person who sells a dog to a laboratory must:

(1) maintain the bill of sale for the dog; and

(2) allow a law enforcement officer to inspect the bill of sale; for not less than one (1) year after the sale of the dog to a laboratory.

Sec. 4. If a person is unable to show a valid bill of sale for a dog:

(1) a laboratory may not purchase the dog; and

(2) there is a rebuttable presumption that the dog is stolen.

SECTION 12. IC 25-38.1 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 38.1 VETERINARIANS

Chapter 1. Preamble; Definitions

Sec. 1. This article is an exercise of the police powers of the state to promote the public health, safety, and welfare of the people of Indiana to safeguard against the incompetent, dishonest, or unprincipled practitioner of veterinary medicine. The practice of veterinary medicine is a privilege conferred by the general assembly to individuals qualified under this chapter.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Accredited college of veterinary medicine" means a veterinary college or division of a university or college that:

(1) offers the degree doctor of veterinary medicine or its equivalent;

(2) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(3) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States Department of Education or its successor.

Sec. 4. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

Sec. 5. "Animal" means any animal other than humans. The term includes:

(1) birds;

(2) fish;

(3) mammals; and

(4) reptiles;

wild or domestic.

Sec. 6. "Approved program" means a program in veterinary technology that:

(1) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(2) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States Department of Education or its successor.

Sec. 7. "Board" means the Indiana board of veterinary medical examiners established by IC 25-38.1-2-1.

Sec. 8. "ECFVG certificate" means a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.

Sec. 9. "Extern" means a:

(1) senior veterinary student enrolled in an accredited college of veterinary medicine; or

(2) second year student enrolled in an approved program in veterinary technology;

employed by or working with a licensed veterinarian and under the licensed veterinarian's direct supervision.

Sec. 10. "Licensed veterinarian" means an individual who is licensed under this article to practice veterinary medicine in Indiana.

Sec. 11. "Person" means an individual, an incorporated or unincorporated organization or association, or a group of persons acting in concert.

Sec. 12. "Practice of veterinary medicine" means:

(1) representing oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches;

(2) using words, letters, or titles in a connection or under circumstances that may induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry;

(3) accepting remuneration for doing any of the things described in subdivisions (4) through (7);

(4) diagnosing a specific disease or injury, or identifying and describing a disease process of animals, or performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon animals;

(5) prescribing a drug, medicine, appliance or application, or treatment of whatever nature for the prevention, cure, or relief of bodily injury or disease of animals;

(6) performing a surgical or dental operation upon an animal; or

(7) administering a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, application, or treatment is administered at the direction and under the direct supervision of a veterinarian licensed under this article.

Sec. 13. "Registered veterinary technician" means a veterinary technician registered under this article to work under the direct supervision of a licensed veterinarian.

Sec. 14. "Veterinarian" means an individual who was a licensed veterinarian on August 31, 1979, or who has received a professional degree from an accredited college of veterinary medicine.

Sec. 15. "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, acupuncture, and all other branches or specialties of veterinary medicine.

Sec. 16. "Veterinary technician" means an individual who has successfully completed a program in veterinary technology of at least two (2) years in a school that conforms to the standards required for accreditation by the American Veterinary Medical Association and that is accredited by the American Veterinary Medical Association.

Chapter 2. Indiana Board of Veterinary Medical Examiners

Sec. 1. (a) The Indiana board of veterinary medical examiners is established.

(b) The board consists of six (6) members appointed by the governor from the districts described in section 3 of this chapter. Not more than one (1) veterinarian member may be domiciled in the same district.

(c) One (1) of the board members must be appointed to represent the general public.

(d) Not more than four (4) board members may be affiliated with the same political party.

(e) If there is a vacancy on the board, the governor shall appoint a successor to complete the unexpired term.

Sec. 2. (a) The term of each member of the board is four (4) years beginning on September 1 of the appropriate year. Each member shall serve until the member's successor is appointed and qualified. Members of the board may be appointed for more than one (1) term, but an individual may not be a member of the board for more than eight (8) years out of any twelve (12) year period.

(b) The terms of the board members expire as follows:

(1) The term of the member from the first district expires on August 31, 2008, and every four (4) years thereafter.

(2) The term of the member from the second district expires on August 31, 2009, and every four (4) years thereafter.

(3) The term of the member from the third district expires on August 31, 2010, and every four (4) years thereafter.

(4) The term of the member from the fourth district expires on August 31, 2011, and every four (4) years thereafter.

(5) The term of the member from the fifth district expires on August 31, 2008, and every four (4) years thereafter.

(6) The term of the member appointed to represent the general public expires on August 31, 2009, and every four (4) years thereafter.

Sec. 3. (a) District 1 consists of the following counties: Clay, Crawford, Daviess, Dubois, Fountain, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spencer, Sullivan, Tippecanoe, Vanderburgh, Vermillion, Vigo, Warren, and Warrick.

(b) District 2 consists of the following counties: Bartholomew, Brown, Clark, Dearborn, Decatur, Delaware, Fayette, Floyd, Franklin, Hancock, Harrison, Henry, Jackson, Jefferson, Jennings, Johnson, Madison, Ohio, Randolph, Ripley, Rush, Scott, Shelby, Switzerland, Union, Washington, and Wayne.

(c) District 3 consists of the following counties: Boone, Clinton, Hamilton, Hendricks, Howard, Marion, and Tipton.

(d) District 4 consists of the following counties: Lake, LaPorte,

Marshall, Porter, St. Joseph, and Starke.

(e) District 5 consists of the following counties: Adams, Allen, Benton, Blackford, Carroll, Cass, DeKalb, Elkhart, Fulton, Grant, Huntington, Jasper, Jay, Kosciusko, LaGrange, Miami, Newton, Noble, Pulaski, Steuben, Wabash, Wells, White, and Whitley.

Sec. 4. (a) Each member of the board must have been a resident of Indiana for at least five (5) years continuously before appointment and must have been a licensed veterinarian in the private practice of veterinary medicine in the state for at least three (3) of those years.

(b) Each member of the board must be a graduate of a school or college of veterinary medicine generally recognized as approved, according to the prevailing standard for recognition as a school or college of veterinary medicine at the time of the member's graduation.

(c) Each member of the board must be a person of good reputation within the profession and within the community in which the member resides.

(d) A member of the board may not be an officer, a director, or an employee in any manufacturing, wholesaling, or retail enterprise dealing in drugs, supplies, instruments, or equipment used or useful in the practice of veterinary medicine, which might constitute or tend to create a conflict of interest between the member's business association and membership on the board.

(e) A member of the board may not be a member of the faculty, board of trustees, or advisory board of a school of veterinary medicine or school of veterinary technology.

(f) Notwithstanding the other provisions of this section, one (1) member of the board, appointed to represent the general public, must be an Indiana resident who has never been associated with veterinary medicine in any way other than as a consumer.

Sec. 5. (a) The board shall hold an annual meeting in Indianapolis and other regular meetings during the year at places the board sets.

(b) The board may hold special meetings as necessary. The chairperson or two (2) members of the board may call a special meeting.

(c) Four (4) members of the board constitute a quorum.

(d) All meetings must be open and public. However, the board

may meet in closed session:

(1) to prepare, approve, administer, or grade examinations;

(2) to deliberate the qualifications of an applicant for license or registration; or

(3) to deliberate the disposition of a proceeding to discipline a licensed veterinarian or registered veterinary technician.

(e) Minutes of each regular and special meeting shall be compiled and kept as a permanent record in the same office as other records of the board are kept. The agency is responsible for the care and safekeeping of the minutes.

Sec. 6. Each member of the board is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 7. (a) At its annual meeting, the board shall elect a chairperson and vice chairperson and other necessary officers determined by the board. Officers shall serve for a term of one (1) year or until a successor is elected. There is no limitation on the number of terms an officer may serve.

(b) The state veterinarian shall be the technical adviser of the board.

(c) The duties of the agency include:

(1) corresponding for the board;

(2) keeping accounts and records of all receipts and disbursements by the board;

(3) keeping records of all applications for license or registration;

(4) keeping a register of all persons currently licensed or registered by the board; and

(5) keeping permanent records of all board proceedings.

Sec. 8. The powers granted to the board in this chapter are to enable the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

Sec. 9. The board is vested with the sole authority to determine the qualifications of applicants for:

(1) a license to practice veterinary medicine; and

(2) registration to practice as a veterinary technician;

in Indiana.

Sec. 10. The board is vested with the sole authority to issue, renew, deny, suspend, or revoke:

(1) licenses and special permits to practice veterinary medicine; and

(2) registrations or special permits to practice as a veterinary technician;

in Indiana.

Sec. 11. The board is vested with sole authority to discipline licensed veterinarians and registered veterinary technicians consistent with this article and the rules adopted under this chapter.

Sec. 12. The board is vested with the sole authority to determine the following:

(1) The examinations applicants are required to take.

(2) The subjects to be covered.

(3) The places where and the dates on which examinations will be given.

(4) The deadlines for applying to take the examinations.

Sec. 13. The board may establish by rule minimum standards of continuing education for the renewal of licenses to practice veterinary medicine and for the renewal of registrations as a veterinary technician. The rules adopted under this section must comply with IC 25-1-4-3.

Sec. 14. The board shall adopt by rule standards of professional conduct for the competent practice of veterinary medicine and the competent practice of a veterinary technician.

Sec. 15. Subject to IC 25-1-7, the board may conduct investigations for the purpose of discovering violations of this article by:

(1) licensed veterinarians or registered veterinary technicians; or

(2) persons practicing veterinary medicine without a license or persons practicing as a registered veterinary technician without being registered.

Sec. 16. The board may inspect, without notice and during normal working hours, veterinary hospitals, clinics, or other establishments to determine if the veterinary hospitals, clinics, or other establishments meet the board's standards of cleanliness and sanitation as defined by the board's rules.

Sec. 17. The board may hold hearings on all matters properly brought before the board. When conducting hearings, the board may administer oaths, receive evidence, make findings, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. The board may designate one (1) or more of its members to serve as the board's hearing officer.

Sec. 18. The board may bring proceedings in the courts for the enforcement of this article or any rules adopted under this chapter.

Sec. 19. (a) The board shall establish by rule under IC 25-1-8 fees sufficient to implement this article, including fees for examining and licensing veterinarians and for examining and registering veterinary technicians.

(b) The fees established under this section shall be charged and collected by the agency.

Sec. 20. The board may enter into reciprocal agreements with its counterpart boards in other states and may effect agreements by rule.

Sec. 21. The board may appoint one (1) or more board members to act as representatives of the board at any meeting inside or outside Indiana where representation is desirable.

Sec. 22. The agency shall provide the board with full or part-time professional and clerical personnel and supplies, including printed matter and equipment, necessary to implement this article.

Sec. 23. The board may adopt rules under IC 4-22-2 that the board considers necessary to carry out the board's duties.

Sec. 24. The board may adopt an appropriate seal, which may be affixed to all license and registration certificates and other official documents of the board.

Chapter 3. Veterinarians; Veterinary Technicians; Licenses, Special Permits, and Registration

Sec. 1. (a) A person may not practice veterinary medicine in Indiana unless the person:

(1) is licensed as a veterinarian in Indiana; or

(2) holds a special permit issued by the board.

(b) A person may not act as a veterinary technician in Indiana unless the person:

(1) is registered as a veterinary technician in Indiana; or

(2) holds a special permit issued by the board.

(c) The following persons are exempt from the licensing, registration, or special permit requirements of this chapter:

(1) A veterinarian on the faculty of the School of Veterinary Medicine at Purdue University performing regular duties, or a veterinarian employed by the animal disease diagnostic laboratory established by IC 21-46-3-1 performing regular duties.

(2) A veterinarian employed by a federal, state, or local government agency performing official duties.

(3) An individual who is a regular student in an accredited college of veterinary medicine or veterinary technology performing duties or actions assigned by instructors or working under the direct supervision of a licensed veterinarian.

(4) An extern.

(5) A veterinarian licensed and resident in another state or nation who occasionally consults with a licensed veterinarian in Indiana.

(6) The owner of an animal or a regular employee of the owner caring for and treating an animal, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

(7) A guest lecturing or giving instructions or demonstrations at the School of Veterinary Medicine at Purdue University, or elsewhere, in connection with a continuing education program.

(8) An individual while engaged in bona fide scientific research that reasonably requires experimentation involving animals.

(9) A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate and who is under the direct supervision of a licensed veterinarian.

(10) A veterinarian who is enrolled in a postgraduate instructional program in an accredited college of veterinary medicine performing duties or actions assigned by instructors or working under the direct supervision of a licensed veterinarian.

Sec. 2. To become a licensed veterinarian, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) pay the fees required under this article;

(3) have successfully completed a program in veterinary medicine from an accredited college of veterinary medicine; and

(4) have successfully completed the examinations provided under section 4 of this chapter or qualify for a license without examination under section 5 of this chapter.

However, a person who was licensed as a veterinarian in Indiana on August 31, 1979, is not required to meet the requirements of subdivision (3) or (4).

Sec. 3. (a) As used in this subsection, "term" refers to an academic semester, trimester, or quarter. A person desiring a license to practice veterinary medicine shall make written application to the board. The application must state that the applicant is:

(1) a graduate of an accredited college of veterinary medicine; or

(2) enrolled in the last term of the last year of the veterinary medical curriculum of an accredited school of veterinary medicine.

If the applicant is enrolled as a last term student as described in subdivision (2), a letter from the dean of the student's veterinary school confirming that the applicant is a last term student, attesting to the satisfactory academic standing of the student, and stating the date on which the degree is expected to be conferred upon the student must accompany the application. A license to practice veterinary medicine in Indiana may not be issued until satisfactory proof has been furnished to the board either that the applicant has graduated from an accredited college of veterinary medicine or that the applicant is the holder of an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate. The application must show reasonable information and proof required by the board by rule. The application must be accompanied by the required fee.

(b) If the board determines that the applicant possesses the proper qualifications, the board may grant the applicant a license.

If the board determines that the applicant is not qualified to take the examination or that the applicant does not qualify for a license without examination, the executive secretary of the board shall immediately notify the applicant in writing of the finding and the grounds for the finding. Applicants found unqualified may request a hearing on the question of their qualifications.

Sec. 4. (a) The board shall hold at least one (1) examination for licensing veterinarians and one (1) examination for registering veterinary technicians each year. However, the board may hold additional examinations. The agency shall give notice of the date, time, and place for each examination at least ninety (90) days before the date set for the examination. A person desiring to take an examination must make application not later than the time the board may prescribe under IC 25-38.1-2-12.

(b) The board must approve the preparation, administration, and grading of examinations. Examinations must be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to practice veterinary medicine or to act as a veterinary technician as the case may be. The board may adopt and use examinations approved by the National Board of Veterinary Medical Examiners.

(c) To qualify for a license as a veterinarian or to be registered as a veterinary technician, the applicant must attain a passing score in the examinations.

(d) After the examinations, the agency shall notify each examinee of the result of the examinee's examinations. The board shall issue a license or registration certificate, as appropriate, to each individual who successfully completes the examinations and is otherwise qualified. The agency shall keep a permanent record of the issuance of each license or registration certificate.

(e) An individual who fails to pass the required examinations may apply to take a subsequent examination. Payment of the examination fee may not be waived.

(f) If an applicant fails to pass the required examination within three (3) attempts in Indiana or any other state, the applicant may not retake the required examination. The applicant may take

subsequent examinations upon approval by the board and completion of remedial education as required by the board.

Sec. 5. The board may issue a license without an examination to a qualified applicant who:

(1) furnishes satisfactory proof that the applicant is a graduate of an accredited college of veterinary medicine or holds an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate;

(2) for the five (5) years immediately preceding filing an application has been a practicing veterinarian licensed in a state, territory, or district of the United States that has license requirements substantially equivalent to the requirements of this chapter; and

(3) otherwise meets the requirements of this chapter.

Sec. 6. To become a registered veterinary technician, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) pay the required fees;

(3) be at least eighteen (18) years of age;

(4) have successfully completed four (4) years of high school education or an acceptable equivalent;

(5) have either successfully completed an approved program of veterinary technology or have been a registered veterinary technician on August 31, 1981; and

(6) show that the person has the necessary knowledge and skills to be a registered veterinary technician, demonstrated by successfully passing the required examinations.

Sec. 7. (a) The board may refuse to issue a registration or may issue a probationary registration to an applicant for registration as a veterinary technician under this chapter if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction; and

(2) the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to competently practice as a veterinary technician in Indiana.

(b) Whenever issuing a probationary registration under this section, the board may impose any or a combination of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(c) The board shall remove any limitations placed on a probationary registration issued under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

(d) This section does not apply to an individual who currently holds a registration certificate under this chapter.

Sec. 8. The board may issue a registration without an examination to a qualified applicant who:

(1) furnishes satisfactory proof that the applicant has successfully completed an approved program of veterinary technology;

(2) for the five (5) years immediately preceding filing an application has been acting as a registered veterinary technician in a state, territory, or district of the United States that has registration requirements substantially equivalent to the requirements of this chapter; and

(3) otherwise meets the requirements of this chapter.

Sec. 9. An applicant for registration as a registered veterinary technician shall complete an application form prescribed by the board. Each application shall be accompanied by the required registration fee and other material that the board may require by rule. Each applicant shall furnish proof to the board that the applicant meets the requirements of a registered veterinary technician under this chapter.

Sec. 10. A license or registration certificate issued under this article is valid for the remainder of the renewal period in effect on the date of issuance.

Sec. 11. (a) A license issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All licenses expire on October 15 in each odd-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a sixty (60) day notice of expiration to each

licensed veterinarian and provide the veterinarian with a form for renewal. The agency shall issue a license renewal to each individual licensed under this chapter if the proper fee has been received and all other requirements for renewal of the license have been satisfied. Failure to renew a license on or before the expiration date automatically renders the license invalid without any action by the board.

Sec. 12. (a) A registration certificate issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All registration certificates expire on January 1 of each even-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a sixty (60) day notice of expiration to each registered veterinary technician and provide the veterinary technician with a form for renewal. The agency shall issue a registration certificate renewal to each individual registered under this chapter if the proper fee has been received and all other requirements for renewal of the registration certificate have been satisfied. Failure to renew a registration certificate on or before the expiration date automatically renders the license invalid without any action by the board.

Sec. 13. (a) An individual who:

(1) practices veterinary medicine after the individual's license has expired, been revoked, or been placed on inactive status; or

(2) acts as a registered veterinary technician after the individual's registration has expired, been revoked, or been placed on inactive status;

violates this article.

(b) A veterinarian may renew an expired license or a veterinary technician may renew an expired registration certificate not later than five (5) years after the date of expiration by making written application for renewal and paying the required fee. After five (5) years have elapsed after the date of the expiration of a license or a registration certificate, the license or registration certificate may not be renewed, but the person may make application for a new license or registration certificate and take the appropriate examinations.

(c) To have a license or registration placed on inactive status, a

licensed veterinarian or registered veterinarian technician must notify the board in writing of the veterinarian's or technician's desire to have the license or registration placed on inactive status. The board shall waive the continuing education requirements, if any, and payment of the renewal fee during the period the license or registration of a veterinarian or technician is on inactive status. A license or registration may be placed on inactive status during the period:

(1) the veterinarian or technician is on active duty with any branch of the armed services of the United States;

(2) the veterinarian or technician is in the Peace Corps;

(3) the veterinarian or technician is in an alternative service during a time of national emergency;

(4) the veterinarian or technician is suffering from a severe medical condition that prevents the veterinarian or technician from meeting the requirements of the board; or

(5) after the veterinarian or technician retires.

A veterinarian or technician who is retired and on inactive status may not maintain an office or practice veterinary medicine. The board may adopt rules under IC 4-22-2 that establish prerequisites or conditions for the reactivation of an inactive license or registration.

Chapter 4. Practice; Discipline; Prohibitions

Sec. 1. (a) During working hours or when actively performing the technician's duties, a registered veterinary technician must wear a unique mark of identification on the technician's clothing that is approved by the board and that identifies the technician as a registered veterinary technician.

(b) A registered veterinary technician may use the title "registered veterinary technician" or the abbreviation "R.V.T.".

(c) An individual who is not a registered veterinary technician may not advertise or offer the individual's services in a manner calculated to lead others to believe that the individual is a trained veterinary technician or a registered veterinary technician.

Sec. 2. A registered veterinary technician may not diagnose, make a prognosis, prescribe medical or surgical treatment, or perform as a surgeon. However, the technician may perform routine procedures defined by board rules while under the direct supervision of a licensed veterinarian responsible for the

technician's performance.

Sec. 3. A licensed veterinarian who is required to directly supervise an employee must be:

(1) present within the veterinarian's usual practice area;

(2) able to communicate directly with the employee at all times that the employee is performing animal health care; and

(3) prepared to personally assume treatment, if necessary for the welfare of the animal.

Direct communication may be verbal, by telephone, or by two-way radio. Instructions must be recorded by the employee and repeated by the employee to the employee's supervising licensed veterinarian.

Sec. 4. The holder:

(1) of a license or special permit to practice veterinary medicine; or

(2) of a registration or special permit to act as a veterinary technician;

must display the certificate of license, registration, or special permit in such a manner as to be visible and readable by persons in the office of the veterinarian.

Sec. 5. A licensed veterinarian may write prescriptions. Pharmacists shall give the prescriptions written by a licensed veterinarian the same recognition given the prescriptions of persons holding an unlimited license to practice medicine or osteopathic medicine.

Sec. 6. Notwithstanding this chapter, in an emergency, in the absence of the licensed veterinarian employer, an employee may perform the duties it is lawful for the employee to perform under the direct supervision of a licensed veterinarian according to the rules of the board and the written authority of the licensed veterinary employer.

Sec. 7. A licensed veterinarian or a registered veterinary technician who, on the veterinarian's or technician's own initiative, gives emergency treatment to a sick or injured animal is not liable in damages to the owner of the animal in the absence of gross negligence. If a licensed veterinarian performs euthanasia on the animal, there is a presumption that performing euthanasia was a humane act, necessary to relieve the animal of pain and suffering.

Sec. 8. (a) An animal placed in the custody of a veterinarian is

considered to be abandoned five (5) days after the veterinarian has given written notice to the individual who delivered the animal to the veterinarian that the animal should be reclaimed by the individual. Written notice must be delivered to the place given by the individual as the individual's mailing address at the time the individual delivered the animal to the veterinarian.

(b) Abandonment of an animal under this section constitutes the relinquishment of all rights and claims by the owner of the animal. The abandoned animal may be sold or otherwise disposed of as the veterinarian may see fit. The purchaser or recipient of the abandoned animal shall receive full and clear title to the animal.

(c) The giving of notice as provided in this section relieves the veterinarian and all persons who receive an abandoned animal from the veterinarian of criminal or civil liability.

(d) The individual who delivered an animal abandoned under this section is liable for all reasonable and customary expenses incurred for diagnosis, treatment, hospitalization, surgery, board, euthanasia, and disposal of the abandoned animal.

Sec. 9. Upon written complaint sworn to by any individual, the board may, by the concurrence of four (4) members, after a hearing and based upon findings of fact, discipline a registered veterinary technician by revoking or suspending the technician's registration for a time certain, by placing the technician on probation, or by any other appropriate means for any of the following reasons:

(1) The use of fraud, misrepresentation, or deception in obtaining a registration.

(2) Chronic intoxication or the unlawful use of a controlled substance.

(3) The use of advertising or solicitation that is false or misleading or is considered unprofessional under rules adopted by the board.

(4) Conviction of or a plea of guilty to the charge of a felony or misdemeanor involving moral turpitude.

(5) Incompetence, gross negligence, or malpractice in performing as a registered veterinary technician.

(6) Cruelty to animals.

(7) Representing the technician as a veterinarian.

(8) Disciplinary action taken against the technician's

registration by the board or by the licensing agency of any other state or jurisdiction by reason of the technician's inability to practice safely as a registered veterinary technician, if the reason is valid in the opinion of the board.

Sec. 10. A person who knowingly:

(1) practices veterinary medicine without a license or special permit to practice veterinary medicine issued by the board; or

(2) supplies false information on an application for a license as a veterinarian;

commits a Class B misdemeanor.

Sec. 11. A person who knowingly:

(1) acts as a registered veterinary technician without being registered as a veterinary technician with the board or having a special permit issued by the board; or

(2) supplies false information on an application for registration as a veterinary technician;

commits a Class B misdemeanor.

Sec. 12. (a) If a person engages in the practice of veterinary medicine without a license or certificate issued under this article:

(1) the attorney general;

(2) a prosecuting attorney;

(3) the board; or

(4) a citizen;

may maintain an action in the name of the state to enjoin the person from engaging in the practice of veterinary medicine.

(b) In charging a person under subsection (a) in an affidavit, information, or indictment with a violation of this article, it is sufficient to charge that the person did, on a certain date and in a certain county, engage in the practice of veterinary medicine without a license or permit issued under this article.

SECTION 13. IC 35-46-3-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. (a) This section does not apply to the following:**

(1) A state or federally inspected livestock slaughtering facility (for conduct authorized by IC 15-17-5 and rules adopted under that chapter).

(2) An animal disease diagnostic laboratory established under IC 21-46-3-1.

(3) A postsecondary educational institution.

(4) A research facility licensed by the United States Department of Agriculture.

(b) As used in this section, "animal" has the meaning set forth in IC 35-46-3-3.

(c) A person who knowingly or intentionally destroys or authorizes the destruction of an animal by:

(1) placing the animal in a decompression chamber and lowering the pressure of or the oxygen content in the air surrounding the animal; or

(2) electrocution;

commits a Class B misdemeanor.

SECTION 14. IC 4-4-2.3-2, AS ADDED BY P.L.83-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The secretary is responsible for implementation of the following:

(1) IC 4-4-9.7.

(2) ~~IC 15-9.~~ **IC 15-11.**

SECTION 15. IC 4-4-11-15, AS AMENDED BY P.L.162-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the affected statutes, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the affected statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the

state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by the affected statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of

money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the affected statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the affected statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 5-28-31-1), rural development project (as defined in IC 5-28-31-20), industrial development project, purpose permitted under IC 13-18-13 and IC 13-18-21, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the affected statutes.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease,

or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the affected statutes.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by

foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial development project for any use.

(23) Expend money provided to the authority by the Indiana economic development corporation from the industrial development project guaranty fund created by IC 5-28-30, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.
(31) Adopt rules and guidelines governing its activities authorized under the affected statutes.
(32) Use the proceeds of bonds to make guaranteed participating loans.
(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.
(34) Sell and guarantee securities.
(35) Make guaranteed participating loans under IC 4-4-21-26.
(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of the affected statutes.
(38) Provide financial counseling services to Indiana exporters.
(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.
(42) Cooperate with the Indiana economic development corporation in taking any actions necessary for the administration of the agricultural loan and rural development project guarantee fund established by IC 5-28-31.
(43) In cooperation with the Indiana economic development corporation, take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to

the enterprise or rural development project is clearly in default and when in the opinion of the Indiana economic development corporation the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money provided to the authority by the Indiana economic development corporation from the agricultural loan and rural development project guarantee fund created by IC 5-28-31, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7,

whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(51) Do any act necessary or convenient to the exercise of the powers granted by the affected statutes, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana housing and community development authority established by IC 5-20-1-3, the Indiana port commission established under IC 8-10-1, and the state fair commission established by ~~IC 15-1.5-2-1~~ **IC 15-13-2-1** in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the Indiana port commission, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 16. IC 4-21.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (c), an order issued under this chapter expires on the earliest of the following:

(1) The date set in the order.

(2) The date set by a statute other than this article.

(3) The elapse of ninety (90) days.

(b) During the pendency of any related proceedings under IC 4-21.5-3, the agency responsible for the proceeding may renew the order for successive ninety (90) day periods unless a statute other than

this article prohibits the renewal of the order.

(c) An order issued under this chapter and ~~IC 15-2.1-6~~ **IC 15-17-6** does not expire.

SECTION 17. IC 4-22-2-37.1, AS AMENDED BY P.L.218-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution

control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15 or IC 12-15-44-19(b).

(22) An emergency rule adopted by the Indiana state board of animal health under ~~IC 15-2.1-18-21.~~ **IC 15-17-10-9.**

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development

corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 18. IC 4-31-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The commission shall:

(1) prescribe the rules and conditions under which horse racing at a recognized meeting may be conducted;

(2) initiate safeguards as necessary to account for the amount of money wagered at each track or satellite facility in each wagering pool;

(3) require all permit holders to provide a photographic or videotape recording, approved by the commission, of the entire running of all races conducted by the permit holder;

(4) make annual reports concerning its operations and recommendations to the governor and, in an electronic format under IC 5-14-6, to the general assembly; and

(5) carry out the provisions of ~~IC 15-5-5.5,~~ **IC 15-19-2,** after considering recommendations received from the Indiana standardbred advisory board under ~~IC 15-5-5.5.~~ **IC 15-19-2.**

SECTION 19. IC 4-31-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Before January 15 and July 15 of each year, each permit holder that operates satellite facilities shall forward to the auditor of state an amount equal to one-half of one percent (0.5%) of the total amount of money wagered at that permit holder's satellite facilities during the six (6) month period ending on the last day of the preceding month. The auditor of state shall distribute amounts received under this section as follows:

(1) Fifty percent (50%) of the amounts received shall be deposited in the livestock industry promotion and development fund established by ~~IC 4-4-3.2.~~ **IC 15-11-5-4.**

(2) Fifty percent (50%) of the amounts received shall be distributed to the state fair commission for use in any activity that the commission is authorized to carry out under ~~IC 15-1.5-3.~~ **IC 15-13-3.**

(b) Payments required by this section shall be made from amounts withheld by the permit holder under section 1 of this chapter.

SECTION 20. IC 5-14-1.5-6.1, AS AMENDED BY P.L.179-2007,

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

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

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

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

(1) Where authorized by federal or state statute.

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

(A) Collective bargaining.

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

(C) The implementation of security systems.

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

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

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

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

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

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

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

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

(i) a physician; or

(ii) a school bus driver.

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

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

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

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

(A) Develop a list of prospective appointees.

(B) Consider applications.

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

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

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

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under ~~IC 15-5-1.1 or~~ IC 25.

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

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

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that

the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

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

SECTION 21. IC 6-1.1-10-38, AS AMENDED BY P.L.2-2007, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 38. This chapter does not contain all of the property tax exemption provisions. The property taxation exemption provisions include, but are not limited to, the following sections:

IC 4-20.5-14-3	IC 20-14-7-3
IC 4-20.5-19	IC 20-14-9-15
IC 5-1-4-26	IC 20-14-10-14
IC 6-1.1-10-5	IC 20-47-2-21
IC 8-10-1-27	IC 20-47-3-15
IC 8-23-7-31	IC 23-7-7-3
IC 8-15-2-12	IC 23-14-70-23
IC 8-21-9-31	IC 36-1-10-18
IC 10-18-2-22	IC 36-7-14-37
IC 10-18-1-36	IC 36-7-15.1-25
IC 10-18-3-12	IC 36-7-18-25
IC 10-18-4-21	IC 36-9-4-52
IC 10-18-7-9	IC 36-9-11-10
IC 14-33-20-27	IC 36-9-11.1-11
~~IC 15-1.5-6-4~~	IC 36-9-13-36
IC 15-13-4-4	IC 36-9-13-37
IC 16-22-6-34	IC 36-9-30-31
IC 21-34-8-3	IC 36-10-8-18
IC 21-35-2-19	IC 36-10-9-18
IC 21-35-3-20	

SECTION 22. IC 6-1.1-12-38, AS AMENDED BY P.L.154-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under ~~IC 15-3-3-12~~ **IC 15-16-2-44** and the pesticide storage rules adopted by the state chemist under ~~IC 15-3-3.5-11;~~ **IC 15-16-4-52;** minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under ~~IC 15-3-3-12~~ **IC 15-16-2-44** and the pesticide storage rules adopted by the state chemist under ~~IC 15-3-3.5-11.~~ **IC 15-16-4-52.**

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement, the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under ~~IC 15-3-3-12~~ **IC 15-16-2-44** and the pesticide storage rules adopted by the state chemist under ~~IC 15-3-3.5-11.~~ **IC 15-16-4-52.** The statement and certification must be filed before June 11 of the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the property is subject to assessment, the county auditor shall allow the deduction.

SECTION 23. IC 6-1.1-18-12, AS AMENDED BY P.L.219-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied

for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted each year to account for the change in assessed value of real property that results from:

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or

(2) a general reassessment of real property under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

(1) IC 8-10-5-17;
(2) IC 8-22-3-11;
(3) IC 8-22-3-25;
(4) IC 12-29-1-1;
(5) IC 12-29-1-2;
(6) IC 12-29-1-3;
(7) IC 12-29-3-6;
(8) IC 13-21-3-12;
(9) IC 13-21-3-15;
(10) IC 14-27-6-30;
(11) IC 14-33-7-3;
(12) IC 14-33-21-5;
(13) ~~IC 15-1-6-2;~~ **IC 15-14-7-4;**
(14) ~~IC 15-1-8-1;~~ **IC 15-14-9-1;**
(15) ~~IC 15-1-8-2;~~ **IC 15-14-9-2;**
(16) IC 16-20-2-18;
(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-22-14;
(20) IC 16-23-1-29;
(21) IC 16-23-3-6;
(22) IC 16-23-4-2;
(23) IC 16-23-5-6;
(24) IC 16-23-7-2;
(25) IC 16-23-8-2;
(26) IC 16-23-9-2;
(27) IC 16-41-15-5;
(28) IC 16-41-33-4;
(29) IC 20-46-2-3;
(30) IC 20-46-6-5;
(31) IC 20-49-2-10;

(32) IC 36-1-19-1;
(33) IC 23-14-66-2;
(34) IC 23-14-67-3;
(35) IC 36-7-13-4;
(36) IC 36-7-14-28;
(37) IC 36-7-15.1-16;
(38) IC 36-8-19-8.5;
(39) IC 36-9-6.1-2;
(40) IC 36-9-17.5-4;
(41) IC 36-9-27-73;
(42) IC 36-9-29-31;
(43) IC 36-9-29.1-15;
(44) IC 36-10-6-2;
(45) IC 36-10-7-7;
(46) IC 36-10-7-8;
(47) IC 36-10-7.5-19;
(48) IC 36-10-13-5;
(49) IC 36-10-13-7;
(50) IC 36-10-14-4;
(51) IC 36-12-7-7;
(52) IC 36-12-7-8;
(53) IC 36-12-12-10; and
(54) any statute enacted after December 31, 2003, that:
(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and
(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the

taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 24. IC 6-2.5-7-5.5, AS ADDED BY P.L.207-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.5. (a) Notwithstanding the limit on deductions in section 5(d) of this chapter, and only to the extent funds are available to reimburse the state as required under ~~IC 15-4-10-24.5,~~ **IC 15-15-12-30,** a retail merchant is entitled to the deduction allowed under section 5(c) of this chapter.

(b) The department shall annually publish in the Indiana Register a notice of the amount of funds available for the reimbursement required under ~~IC 15-4-10-24.5.~~ **IC 15-15-12-30.**

SECTION 25. IC 8-3-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. All railroad corporations doing business in this state shall, between July 1 and August 20 in each year,

destroy detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation growing on lands occupied by them.

SECTION 26. IC 8-21-1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.1. (a) For purposes of this section and section 10.2 of this chapter, a "lighter-than-air aircraft" means a gas or hot air filled free balloon, with or without airborne heaters or engines, or any other type of balloon designed to transport persons or goods.

(b) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for agricultural application if the applicator:

(1) is licensed as a pesticide operator by the state chemist and has met the requirements of ~~IC 15-3-3.6-6,~~ **IC 15-16-5-48;** and

(2) has received permission to use the land for agricultural aviation purposes from the owner or lessee of the land.

(c) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites for helicopters if the operator of the helicopter:

(1) meets Federal Aviation Administration qualifications for operation of the specific aircraft;

(2) determines that air routes to and from the site are acceptable to the aircraft's limitations and that proposed routes in congested areas provide for emergency landings in the event that an autorotation descent is necessary;

(3) follows all Federal Aviation Administration regulations covering landing on and departing from the site; and

(4) has received permission to use the site from the owner or lessee of the site.

(d) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for lighter-than-air aircraft. However, no person may operate a lighter-than-air aircraft from any landing site unless the pilot is in compliance with:

(1) all applicable federal air regulations; and

(2) all rules and regulations adopted by the department which relate to the operation of a lighter-than-air aircraft.

SECTION 27. IC 9-20-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to a truck, a truck-trailer combination, or a truck-wagon combination that is either:

(1) a municipal waste collection and transportation vehicle:

(A) specially designed and equipped with a self-compactor or detachable container;

(B) used exclusively for garbage, refuse, or recycling operations; and

(C) laden with garbage, refuse, or recyclables; or

(2) a disposal plant transporting vehicle certified under ~~IC 15-2.1-16~~ **IC 15-17-11** that is laden with dead animals or animal parts.

SECTION 28. IC 14-8-2-67, AS AMENDED BY P.L.1-2006, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 67. (a) "Department", except for purposes of IC 14-32, refers to the department of natural resources.

(b) "Department" for purposes of IC 14-32, refers to the department of agriculture established by ~~IC 15-9-2-1.~~ **IC 15-11-2-1.**

SECTION 29. IC 14-8-2-77, AS AMENDED BY P.L.1-2006, SECTION 207, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 77. "Division" has the following meaning:

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

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

(3) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-6.

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

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

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

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

(8) For purposes of IC 14-32, the division of soil conservation of

the department of agriculture established by ~~IC 15-9-4-1.~~ **IC 15-11-4-1.**

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

SECTION 30. IC 14-22-6-14, AS AMENDED BY P.L.1-2006, SECTION 213, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The:

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

(2) division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1,~~ **IC 15-11-4-1** through the soil and water conservation districts established under IC 14-32;

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

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

(1) control; or

(2) obtain assistance in controlling;

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

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

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

SECTION 31. IC 14-22-20.5-5, AS ADDED BY P.L.93-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Meat and products derived from privately owned cervidae that are from a cervidae livestock operation may be sold to the general public, subject to ~~IC 15-2.1-24.~~ **IC 15-17-5.**

SECTION 32. IC 14-22-38-4, AS AMENDED BY P.L.75-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A person who:

(1) unlawfully takes or possesses a deer or wild turkey;

(2) takes or possesses a deer or wild turkey by illegal methods or with illegal devices; or

(3) except as provided in subsections (c) and (d), sells, offers to sell, purchases, or offers to purchase a deer or wild turkey or a part of a deer or wild turkey;

shall reimburse the state five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent violation.

(b) The money shall be deposited in the conservation officers fish and wildlife fund. This penalty is in addition to any other penalty under the law.

(c) Notwithstanding section 6 of this chapter, if a properly tagged deer is brought to a meat processing facility and the owner of the deer:

(1) fails to pick up the processed deer within a reasonable time; or

(2) notifies the meat processing facility that the owner does not want the processed deer;

the deer meat may be given away by the meat processing facility to another person. The meat processing facility may charge the person receiving the deer meat a reasonable and customary processing fee.

(d) Notwithstanding section 6 of this chapter, deer meat and products from farm raised deer that meet the requirements under ~~IC 15-2.1~~ **IC 15-17** may be sold to the public.

SECTION 33. IC 14-32-2-1, AS AMENDED BY P.L.175-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The soil conservation board is established within the department of agriculture established by ~~IC 15-9-2-1~~ **IC 15-11-2-1** as the policy making body for soil and water conservation.

SECTION 34. IC 14-32-2-8, AS AMENDED BY P.L.1-2006, SECTION 221, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The members of the board shall elect a member as the chairman of the board.

(b) The director of the division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1~~ **IC 15-11-4-1** is the secretary of the board.

SECTION 35. IC 14-32-5-4, AS AMENDED BY P.L.1-2006, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section, "landfill" means a facility where solid waste is to be disposed of

through placement on or beneath the surface of the ground. However, the term does not include any of the following:

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

(2) A surface impoundment.

(3) An injection well.

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

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

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

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

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

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

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

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

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

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

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

(1) The executive of the county.

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

(3) The director of the division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1.~~ **IC 15-11-4-1.**

SECTION 36. IC 14-32-8-4, AS AMENDED BY P.L.1-2006, SECTION 231, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The clean water Indiana program is established. The division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1~~ **IC 15-11-4-1** shall administer the program subject to the direction of the board.

SECTION 37. IC 16-18-2-339 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 339. (a) "State department" refers to the state department of health.

(b) For purposes of IC 16-42-1 through IC 16-42-4, the term means the Indiana state board of animal health when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** and ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 38. IC 16-18-2-340 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 340. (a) "State health commissioner" or "commissioner", except as otherwise provided, means the state health commissioner of the state department of health.

(b) For purposes of IC 16-21, IC 16-28, and IC 16-29, the term includes a deputy or an assistant state health commissioner appointed by the state health commissioner, or an agent expressly authorized by the state health commissioner.

(c) For purposes of IC 16-42-1 through IC 16-42-4, the term means the state veterinarian when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** and ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 39. IC 16-20-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The members of a local board of health shall be chosen as follows:

(1) Four (4) persons knowledgeable in public health, at least two (2) of whom are licensed physicians. The other two (2) appointees may be any of the following:

(A) A registered nurse licensed under IC 25-23.

(B) A registered pharmacist licensed under IC 25-26.

(C) A dentist licensed under IC 25-14.

(D) A hospital administrator.

(E) A social worker.

(F) An attorney with expertise in health matters.

(G) A school superintendent.

(H) A veterinarian licensed under ~~IC 15-5-1.1.~~ **IC 25-38.1.**

(I) A professional engineer registered under IC 25-31.

(J) An environmental scientist.

(2) Two (2) representatives of the general public.

(3) One (1) representative described in either subdivision (1) or (2).

SECTION 40. IC 16-20-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There must be at least seven (7) members of a multiple county board of health.

(b) The county executives establishing a multiple county health department shall determine the following for the multiple county board of health:

(1) The number of members.

(2) The qualifications of members.

(3) The number of appointments made by each county.

(c) The county executive of each county participating in a multiple county board of health shall appoint at least one (1) licensed physician.

(d) At least two-thirds (2/3) of the members appointed under this section must have expertise in public health. The appointees may be any of the following:

(1) A registered nurse licensed under IC 25-23.

(2) A registered pharmacist licensed under IC 25-26.

(3) A dentist licensed under IC 25-14.

(4) A hospital administrator.

(5) A social worker.

(6) An attorney with expertise in health matters.

(7) A school superintendent.

(8) A veterinarian licensed under ~~IC 15-5-1.1.~~ **IC 25-38.1.**

(9) A professional engineer registered under IC 25-31.

(10) An environmental scientist.

SECTION 41. IC 16-42-1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 42. IC 16-42-2-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or

misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 43. IC 16-42-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 44. IC 16-42-4-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 45. IC 21-46-2-2, AS ADDED BY P.L.2-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~In carrying out its duties under this chapter,~~ The center for value added research **(IC 15-11-9)** shall cooperate with and may use the resources of

~~(1)~~ Purdue University and other colleges and universities located in Indiana.

~~(2) any other state or federal department or agency;~~

~~(3) political subdivisions located in Indiana; and~~

~~(4) interest groups representing agriculture, business, and industry in Indiana.~~

SECTION 46. IC 22-11-20-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "law" includes the following:

(1) IC 13 or a rule adopted under IC 13.

(2) ~~IC 15-3-2~~ **IC 15-16-1** or a rule adopted under ~~IC 15-3-2.~~ **IC 15-16-1.**

(3) IC 22-8-1.1 or a rule adopted under IC 22-8-1.1.

(4) An equipment law.

SECTION 47. IC 23-1.5-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. "Veterinarian" means an individual admitted to practice veterinary medicine under ~~IC 15-5-1.1-11.~~ **IC 25-38.1-3.**

SECTION 48. IC 23-14-68-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. For the purposes of this chapter, the maintenance of a cemetery includes the following:

(1) Resetting and straightening all monuments.

(2) Leveling and seeding the ground.

(3) Constructing fences where there are none and repairing existing fences.

(4) Destroying and cleaning up detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation.

SECTION 49. IC 23-14-69-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. A township trustee shall care for and maintain each cemetery to which this chapter applies that is located in the township, keeping the cemeteries in a respectable condition by:

(1) destroying detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation; and

(2) removing all unsightly accumulations and debris.

SECTION 50. IC 23-14-74-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A corporation, organization, association, or individual that owns and has the control and management of a public cemetery located in a township shall keep the public cemetery in a respectable condition by destroying detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation.

SECTION 51. IC 25-1-4-0.2, AS ADDED BY P.L.157-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.2. As used in this chapter, "approved

organization" refers to the following:

(1) United States Department of Education.

(2) Council on Post-Secondary Education.

(3) Joint Commission on Accreditation of Hospitals.

(4) Joint Commission on Healthcare Organizations.

(5) Federal, state, and local government agencies.

(6) A college or other teaching institution accredited by the United States Department of Education or the Council on Post-Secondary Education.

(7) A national organization of practitioners whose members practicing in Indiana are subject to regulation by a board or agency regulating a profession or occupation under this title. ~~or IC 15.~~

(8) A national, state, district, or local organization that operates as an affiliated entity under the approval of an organization listed in subdivisions (1) through (7).

(9) An internship or a residency program conducted in a hospital that has been approved by an organization listed in subdivisions (1) through (7).

(10) Any other organization or individual approved by the board.

SECTION 52. IC 25-1-4-0.3, AS AMENDED BY P.L.185-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

(6) State boxing commission (IC 25-9-1).

(7) Board of chiropractic examiners (IC 25-10-1).

(8) State board of cosmetology examiners (IC 25-8-3-1).

(9) State board of dentistry (IC 25-14-1).

(10) Indiana dietitians certification board (IC 25-14.5-2-1).

(11) State board of registration for professional engineers (IC 25-31-1-3).

(12) Board of environmental health specialists (IC 25-32-1).

(13) State board of funeral and cemetery service (IC 25-15-9).

(14) Indiana state board of health facility administrators (IC 25-19-1).

(15) Committee ~~on~~ **of** hearing aid dealer examiners (IC 25-20-1-1.5).

(16) Home inspectors licensing board (IC 25-20.2-3-1).

(17) Indiana hypnotist committee (IC 25-20.5-1-7).

(18) State board of registration for land surveyors (IC 25-21.5-2-1).

(19) Manufactured home installer licensing board (IC 25-23.7).

(20) Medical licensing board of Indiana (IC 25-22.5-2).

(21) Indiana state board of nursing (IC 25-23-1).

(22) Occupational therapy committee (IC 25-23.5).

(23) Indiana optometry board (IC 25-24).

(24) Indiana board of pharmacy (IC 25-26).

(25) Indiana physical therapy committee (IC 25-27-1).

(26) Physician assistant committee (IC 25-27.5).

(27) Indiana plumbing commission (IC 25-28.5-1-3).

(28) Board of podiatric medicine (IC 25-29-2-1).

(29) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(30) State psychology board (IC 25-33).

(31) Indiana real estate commission (IC 25-34.1-2).

(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(33) Respiratory care committee (IC 25-34.5).

(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(35) Speech-language pathology and audiology board (IC 25-35.6-2).

(36) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**

SECTION 53. IC 25-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. No board or agency regulating a profession or occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 may require continuing education as a condition of certification, registration, or licensure unless so specifically authorized or mandated by statute.

SECTION 54. IC 25-1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. A board or agency regulating a profession or occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 may cooperate with members of the profession or occupation it regulates to promote continuing education within the profession or occupation.

SECTION 55. IC 25-1-4-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. A board or agency regulating a profession or occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 shall require that at least one-half ~~(50%)~~ **(1/2)** of all continuing education requirements must be allowed by distance learning methods, except for doctors, nurses, chiropractors, optometrists and dentists.

SECTION 56. IC 25-1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A board, a commission, a committee, or an agency regulating a profession or **an** occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 may grant an applicant a waiver from all or part of the continuing education requirement for a renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following:

(1) Service in the armed forces of the United States during a substantial part of the renewal period.

(2) An incapacitating illness or injury.

(3) Other circumstances determined by the board or agency.

SECTION 57. IC 25-1-5-3, AS AMENDED BY P.L.206-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).
(7) Indiana board of pharmacy (IC 25-26).
(8) Board of podiatric medicine (IC 25-29-2-1).
(9) Board of environmental health specialists (IC 25-32).
(10) Speech-language pathology and audiology board (IC 25-35.6-2).
(11) State psychology board (IC 25-33).
(12) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**
(13) Controlled substances advisory committee (IC 35-48-2-1).
(14) Committee of hearing aid dealer examiners (IC 25-20).
(15) Indiana physical therapy committee (IC 25-27).
(16) Respiratory care committee (IC 25-34.5).
(17) Occupational therapy committee (IC 25-23.5).
(18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(19) Physician assistant committee (IC 25-27.5).
(20) Indiana athletic trainers board (IC 25-5.1-2-1).
(21) Indiana dietitians certification board (IC 25-14.5-2-1).
(22) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

SECTION 58. IC 25-1-5-10, AS AMENDED BY P.L.206-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).
(2) State board of dentistry (IC 25-14-1).
(3) Indiana state board of health facility administrators (IC 25-19-1).
(4) Medical licensing board of Indiana (IC 25-22.5-2).
(5) Indiana state board of nursing (IC 25-23-1).
(6) Indiana optometry board (IC 25-24).
(7) Indiana board of pharmacy (IC 25-26).
(8) Board of podiatric medicine (IC 25-29-2-1).
(9) Board of environmental health specialists (IC 25-32-1).
(10) Speech-language pathology and audiology board

(IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**

(13) Indiana physical therapy committee (IC 25-27).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) The agency shall create and maintain a provider profile for each provider described in subsection (a).

(c) A provider profile must contain the following information:

(1) The provider's name.

(2) The provider's license, certification, registration, or permit number.

(3) The provider's license, certification, registration, or permit type.

(4) The date the provider's license, certification, registration, or permit was issued.

(5) The date the provider's license, certification, registration, or permit expires.

(6) The current status of the provider's license, certification, registration, or permit.

(7) The provider's city and state of record.

(8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).

(d) The agency shall make provider profiles available to the public.

(e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.

(f) The agency may adopt rules under IC 4-22-2 to implement this section.

SECTION 59. IC 25-1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**

(13) Indiana physical therapy committee (IC 25-27-1).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

SECTION 60. IC 25-1-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under ~~IC 15-5-1.1,~~ IC 25-22.5, **IC 25-38.1,** or IC 25-14, the consumer protection division of the attorney general's office shall make

a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

SECTION 61. IC 25-1-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to an individual who:

(1) holds a license, certificate, registration, or permit under this title, ~~IC 15,~~ IC 16, or IC 22; and

(2) is called to active duty.

SECTION 62. IC 25-1-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

(4) an intern permit; or

(5) a provisional license;

issued under this title, ~~or IC 15,~~ IC 16, or IC 22.

SECTION 63. IC 25-20.2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This article applies to an individual who conducts home inspections for compensation.

(b) This article does not apply to the following:

(1) An individual who is acting within the scope of the

individual's employment as:

(A) a code enforcement official for the state or a political subdivision of the state; or

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development.

(2) An individual who is:

(A) either:

(i) registered as an architect under IC 25-4;

(ii) registered as a professional engineer under IC 25-31; or

(iii) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5; and

(B) acting within the scope of the individual's registration or license.

(3) An individual who is licensed under IC 25-34.1 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license.

(4) An individual who is licensed or certified under IC 25-34.1 as a real estate appraiser and is acting within the scope of the individual's license or certificate.

(5) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.

(6) An individual who holds a permit, certificate, or license to:

(A) use and apply pesticides; or

(B) make diagnostic inspections and reports for wood destroying pests;

under ~~IC 15-3-3.6~~ **IC 15-16-5** and is acting within the scope of the individual's certificate or license.

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license.

SECTION 64. IC 25-26-21-5, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This chapter does not apply to the following:

(1) A home health agency (as defined in IC 16-27-1-2) that does not sell, lease, or rent home medical equipment.

(2) A hospital licensed under IC 16-21-2 that:

(A) provides home medical equipment services only as an integral part of patient care; and

(B) does not provide home medical equipment services through a separate business entity.

(3) A manufacturer or wholesale distributor that does not sell, lease, or rent home medical equipment directly to a consumer.

(4) Except as provided under subsection (b), a practitioner (as defined in IC 25-1-9-2) who does not sell, lease, or rent home medical equipment.

(5) A veterinarian licensed under ~~IC 15-5-1.1.~~ **IC 25-38.1-3.**

(6) A hospice program (as defined in IC 16-25-1.1-4) that does not sell, lease, or rent home medical equipment.

(7) A health facility licensed under IC 16-28 that does not sell, lease, or rent home medical equipment.

(8) A provider that:

(A) provides home medical equipment services within the scope of the licensed provider's professional practice;

(B) is otherwise licensed by the state; and

(C) receives annual continuing education that is documented by the provider or the licensing entity.

(9) An employee of a person licensed under this chapter.

(b) A pharmacist licensed in Indiana or a pharmacy that holds a permit issued under IC 25-26 that sells, leases, or rents home medical equipment:

(1) is not required to obtain a license under this chapter; and

(2) is otherwise subject to the:

(A) requirements of this chapter; and

(B) requirements established by the board by rule under this chapter.

SECTION 65. IC 25-31.5-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. "State chemist" refers to the state chemist appointed under ~~IC 15-3-3-2.~~ **IC 15-16-2-24.**

SECTION 66. IC 26-3-7-2, AS AMENDED BY P.L.1-2006, SECTION 483, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Agency" refers to the Indiana grain buyers and warehouse licensing agency established under section 1 of this chapter.

(2) "Anniversary date" means the date that is ninety (90) calendar days after the fiscal year end of a business licensed under this chapter.

(3) "Bin" means a bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

(4) "Buyer-warehouse" means a person that operates both as a warehouse licensed under this chapter and as a grain buyer.

(5) "Claimant" means a person that is unable to secure satisfaction of the financial obligations due from a licensee under this chapter for grain that has been delivered to the licensee for sale or for storage under a bailment.

(6) "Deferred pricing" or "price later" means a purchase by a buyer in which title to the grain passes to the buyer and the price to be paid to the seller is not determined:

(A) at the time the grain is received by the buyer; or

(B) within ten (10) days of receipt.

(7) "Depositor" means any of the following:

(A) A person that delivers grain to a licensee under this chapter for storage or sale.

(B) A person that:

(i) owns or is the legal holder of a ticket or receipt issued by a licensee for grain received by the licensee; and

(ii) is the creditor of the issuing licensee for the value of the grain received in return for the ticket or receipt.

(C) A licensee that stores grain that the licensee owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensee or another licensee.

(8) "Designated representative" means the person or persons designated by the director to act instead of the director in assisting in the administration of this chapter.

(9) "Director" means the director of the Indiana grain buyers and warehouse licensing agency appointed under section 1 of this chapter.

(10) "Facility" means a location or one (1) of several locations in Indiana that are operated as a warehouse or by a grain buyer.

(11) "Failure" means any of the following:

(A) The inability of a licensee to financially satisfy claimants.

(B) Public declaration of a licensee's insolvency.

(C) Revocation or suspension of a licensee's license, if the licensee has outstanding indebtedness owed to claimants.

(D) Nonpayment of a licensee's debts in the ordinary course of business, if there is not a good faith dispute.

(E) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.

(12) "Grain" means corn for all uses, popcorn, wheat, oats, barley, rye, sorghum, soybeans, oil seeds, other agricultural commodities as approved by the agency, and seed as defined in this section. The term does not include canning crops for processing, sweet corn, or flint corn.

(13) "Grain assets" means any of the following:

(A) All grain owned or stored by a licensee, including grain that:

(i) is in transit following shipment by a licensee; and

(ii) has not been paid for.

(B) All proceeds, due or to become due, from the sale of a licensee's grain.

(C) Equity, less any secured financing directly associated with the equity, in hedging or speculative margin accounts of a licensee held by a commodity or security exchange, or a dealer representing a commodity or security exchange, and any money due the licensee from transactions on the exchange, less any secured financing directly associated with the money due the licensee from the transactions on the exchange.

(D) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced to the sale of grain by a licensee. However, funds, property, or equity in funds or property may not be considered encumbered unless:

(i) the encumbrance results from valuable consideration paid to the licensee in good faith by a secured party; and

(ii) the encumbrance did not result from the licensee posting the funds, property, or equity in funds or property as additional collateral for an antecedent debt.

(E) Any other unencumbered funds, property, or equity in assets of the licensee.

(14) "Grain bank grain" means grain owned by a depositor for use

in the formulation of feed and stored by the warehouse to be returned to the depositor on demand.

(15) "Grain buyer" means a person who is engaged in the business of buying grain from producers. The term does not include a buyer of grain who:

(A) buys less than fifty thousand (50,000) bushels of grain annually;

(B) buys grain for the sole purpose of feeding the person's own livestock or poultry and derives a major portion of the person's income from selling that livestock or poultry; or

(C) does not offer storage, deferred pricing, delayed payment, or contracts or other instruments that are linked to the commodity futures or commodity options market.

(16) "Grain standards act" means the United States Grain Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C. 71-87 as amended).

(17) "License" means a license issued under this chapter.

(18) "Official grain standards of the United States" means the standards of quality or condition for grain, fixed and established by the secretary of agriculture under the grain standards act.

(19) "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

(20) "Receipt" means a warehouse receipt issued by a warehouse licensed under this chapter.

(21) "Seed", notwithstanding ~~IC 15-4-1,~~ **IC 15-15-1,** means grain set apart to be used primarily for the purpose of producing new plants.

(22) "Ticket" means a scale weight ticket, a load slip, or other evidence, other than a receipt, given to a depositor upon initial delivery of grain to a facility.

(23) "Warehouse act" means the United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273 as amended).

(24) "Warehouse" means a person that operates a facility or group of facilities in which grain is or may be stored for hire or which is used for grain bank storage and which is operated under one (1) ownership and run from a single office.

SECTION 67. IC 26-3-7-6.3, AS ADDED BY P.L.207-2007,

SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.3. (a) The grain buyers and warehouse licensing agency license fee fund is established to provide funds for the administration of this chapter. The fund shall be administered by the agency. The fund consists of:

(1) the moisture testing device inspection fees collected under ~~IC 4-4-27-3,~~ **IC 15-11-8-3;**

(2) the licensing fees collected under section 6 of this chapter;

(3) gifts and bequests; and

(4) appropriations made by the general assembly.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 68. IC 26-4-1-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19.5. "Seed", notwithstanding ~~IC 15-4-1,~~ **IC 15-15-1,** means grain set apart to be used primarily for the purpose of producing new plants.

SECTION 69. IC 29-1-17-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) If after reasonable search, satisfactory to the court, there shall be no known heir of the decedent, all of his net estate not disposed of by will shall be ordered paid to the state treasurer to become a part of the common school fund, subject to the further provisions of this section.

(b) If any heir, distributee, advisee, or claimant cannot be found after reasonable search, satisfactory to the court, the personal representative shall sell the share of the estate to which he is entitled, pursuant to an order of court first obtained, and pay the proceeds to the clerk of the court for use and benefit of the person or persons thereafter determined to be entitled thereto according to law.

(c) When the personal representative shall pay any money to the state treasurer or clerk of the court pursuant to this section, he shall take a receipt therefor and file it with the court with the other receipts filed in the proceeding. Such receipt shall be sufficient to discharge the

personal representative in the same manner and to the same extent as though such distribution or payment were made to a distributee or claimant entitled thereto.

(d) The moneys received by the state treasurer pursuant to the provisions of this section shall be paid to the person entitled on proof of his right thereto or in the case of an absentee, to the receiver of such absentee's property, or, if the state treasurer refuses or fails to pay because he is doubtful as to his duties in the premises, such person may apply to the court in which the estate was administered, whereupon the court upon notice to the state treasurer may determine the person entitled thereto and order the treasurer to pay the same accordingly. No interest shall be allowed thereon and such distributee or claimant shall pay all costs and expenses incident to the proceedings. If such proceeds are not paid or no application is made to the court within seven (7) years after such payment to the state treasurer, no recovery thereof shall be had.

(e) This section does not apply to stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and that are the result of distributable savings of a rural electric membership corporation formed under IC 8-1-13, a rural telephone cooperative corporation formed under IC 8-1-17, or an agricultural cooperative association formed under ~~IC 15-7-1.~~ **IC 15-12-1.**

SECTION 70. IC 32-34-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This chapter does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

(b) This chapter does not apply to:

(1) stocks;
(2) dividends;
(3) capital credits;
(4) patronage refunds;
(5) utility deposits;
(6) membership fees;
(7) account balances; or
(8) book equities;

for which the owner cannot be found and that are the result of distributable savings of a rural electric membership corporation formed

under IC 8-1-13, a rural telephone cooperative corporation formed under IC 8-1-17, or an agricultural cooperative association formed under ~~IC 15-7-1.~~ **IC 15-12-1.**

(c) This chapter does not apply to unclaimed overpayments of utility bills that become the property of a municipality under IC 36-9-23-28.5.

(d) This chapter does not apply to deposits required by a municipally owned utility (as defined in IC 8-1-2-1).

(e) This chapter does not apply to a business to business credit memorandum or a credit balance resulting from a business to business credit memorandum.

(f) This chapter does not apply to gift certificates or gift cards.

SECTION 71. IC 33-37-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) This section applies to criminal actions.

(b) The clerk shall collect the marijuana eradication program fee set by the court under ~~IC 15-3-4.6-4.1~~ **IC 15-16-7-8,** if:

(1) a weed control board has been established in the county under ~~IC 15-3-4.6-1,~~ **IC 15-16-7-3;** and

(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

(c) The court may set a fee under this section of not more than three hundred dollars ($300).

SECTION 72. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. ~~IC 15-3-4-2~~ **IC 15-16-8-4** (Concerning township trustees or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 73. IC 34-30-2-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 59. ~~IC 15-4-9-5~~ **IC 15-15-9-7** (Concerning administrator and state for certification of agricultural products).

SECTION 74. IC 34-30-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 60. ~~IC 15-4-10-25~~ **IC 15-15-12-31** (Concerning the state, political subdivisions, and the members, officers, employees, and agents of the corn marketing council for debts or actions of the council).

SECTION 75. IC 34-30-2-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 61. ~~IC 15-5-1.1-31~~

IC 25-38.1-4-7 (Concerning veterinarians or veterinary technicians who give emergency treatment to sick or injured animals).

SECTION 76. IC 34-30-2-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 62. ~~IC 15-5-1.1-33~~ **IC 25-38.1-4-8** (Concerning veterinarians who dispose of, and persons who receive from veterinarians, abandoned animals).

SECTION 77. IC 34-30-2-63 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 63. ~~IC 15-5-16-5~~ **IC 15-19-5-7** (Concerning the state and the livestock certification administrator for acts taken under the livestock certification program).

SECTION 78. IC 34-30-2-64, AS AMENDED BY P.L.1-2006, SECTION 520, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. ~~IC 15-7-2-5~~ **IC 15-12-2-6** (Concerning the United States and the United States Secretary of Agriculture for the transfer of assets to the director of the department of agriculture on behalf of the Indiana rural rehabilitation corporation).

SECTION 79. IC 35-46-3-5, AS AMENDED BY P.L.171-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

(1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.

(2) Conduct authorized under ~~IC 15-5-7.~~ **IC 15-20-2.**

(3) Veterinary practices authorized by standards adopted under ~~IC 15-5-1.1-8.~~ **IC 25-38.1-2-14.**

(4) Conduct authorized by a local ordinance.

(5) Acceptable farm management practices.

(6) Conduct authorized by ~~the Indiana Meat and Poultry Inspection and Humane Slaughter Act, IC 15-2.1-24,~~ **IC 15-17-5,** and rules adopted under ~~IC 15-2.1-24~~ **IC 15-17-5** for state or federally inspected livestock slaughtering facilities.

(7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

(8) Destruction of a vertebrate defined as a pest under ~~IC 15-3-3.6-2(22).~~ **IC 15-16-5-24.**

(9) Destruction of or injury to a fish.

(10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal; or

(B) destroying or damaging a person's property.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

SECTION 80. IC 35-46-3-6, AS AMENDED BY P.L.171-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or ~~IC 15-5-12-3~~ **IC 15-20-1-4** may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or ~~IC 15-5-12-3,~~ **IC 15-20-1-4,** the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or ~~IC 15-5-12~~ **IC 15-20-1** shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or ~~IC 15-5-12~~ **IC 15-20-1** has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under ~~IC 15-2.1-2-50~~ **IC 15-17-4-1** or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or ~~IC 15-5-12,~~ **IC 15-20-1,** the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

SECTION 81. IC 36-2-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Each county highway department shall control detrimental plants (as defined in ~~IC 15-3-4-1)~~ **IC 15-16-8-1),** and noxious weeds as required by law.

SECTION 82. IC 36-6-4-3, AS AMENDED BY P.L.1-2006, SECTION 562, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all township property interests.

(3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.

(5) Receive and pay out township funds.

(6) Examine and settle all accounts and demands chargeable against the township.

(7) Administer township assistance under IC 12-20 and IC 12-30-4.

(8) Perform the duties of fence viewer under IC 32-26.

(9) Act as township assessor when required by IC 36-6-5.

(10) Provide and maintain cemeteries under IC 23-14.

(11) Provide fire protection under IC 36-8, except in a township that:

(A) is located in a county having a consolidated city; and

(B) consolidated the township's fire department under IC 36-3-1-6.1.

(12) File an annual personnel report under IC 5-11-13.

(13) Provide and maintain township parks and community centers under IC 36-10.

(14) Destroy detrimental plants, noxious weeds, and rank vegetation under ~~IC 15-3-4.~~ **IC 15-16-8.**

(15) Provide insulin to the poor under IC 12-20-16.

(16) Perform other duties prescribed by statute.

SECTION 83. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 15-1; IC 15-1.5; IC 15-2.1; IC 15-3; IC 15-4; IC 15-5; IC 15-6; IC 15-7; IC 15-9; IC 21-46-1-2; IC 21-46-2-1; IC 21-46-2-3; IC 21-46-2-4.

P.L.3-2008

[H.1137. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 3-8-1-23.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.4. A candidate for election as a member of the county board of tax and capital projects review in 2008 and thereafter must have resided in the county for at least one (1) year before the election.**

SECTION 2. IC 3-8-1-23.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.6. (a) A person who runs in an election after June 30, 2008, for the office of township assessor under IC 36-6-5-1 must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office.**

(b) A person who runs in an election after June 30, 2008, for the office of township trustee and who performs all the duties and has all the rights and powers of a township assessor under IC 36-6-5-1 must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office to qualify to perform those duties and to assume those rights and powers.

(c) A person who runs successfully under subsection (b) but has not attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office:

(1) may perform in office only duties other than the duties of a township assessor under IC 36-6-5-1; and

(2) has only the rights and powers of the trustee other than the rights and powers of a township assessor under IC 36-6-5-1.

The restrictions listed in this subsection apply to the entire term for which the person takes office, regardless of whether the person attains the certification of a level two assessor-appraiser under IC 6-1.1-35.5 during the term of office.

SECTION 3. IC 3-11-17-6, AS ADDED BY P.L.221-2005, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, ~~IC 11 3-11-16,~~ **IC 3-11-16,** and this chapter.

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.

(c) The expenses of administering the account shall be paid from the money in the account. The account consists of all civil penalties collected under this chapter.

SECTION 4. IC 4-10-11-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) Notwithstanding any other laws to the contrary, any per diem that is paid from state funds for travel, lodging, or meals and that is authorized by statute in an amount that is less than the amount prescribed, pursuant to ~~IC 4-10-11-2,~~ **section 2 of this chapter,** by the state budget agency for that particular per diem is hereby set at that amount prescribed by the state budget agency.

(b) Notwithstanding any other laws to the contrary, any salary per diem that is paid from state funds and that is authorized by statute in an amount that is less than thirty-five dollars ($35.00) per day is hereby set at thirty-five dollars ($35.00) per day or at any other amount as may be established by the general assembly after July 1, 1977.

SECTION 5. IC 4-13-16.5-1, AS AMENDED BY P.L.228-2007,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

(c) "Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

(d) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

(e) "Department" refers to the Indiana department of administration established by IC 4-13-1-2.

(f) "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

(1) United States citizens; and

(2) members of a minority group or a qualified minority nonprofit corporation.

(g) "Qualified minority or women's nonprofit corporation" means a corporation that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) is headquartered in Indiana;

(3) has been in continuous existence for at least five (5) years;

(4) has a board of directors that has been in compliance with all other requirements of this chapter for at least five (5) years;

(5) is chartered for the benefit of the minority community or women; and

(6) provides a service that will not impede competition among minority business enterprises or women's business enterprises at the time a nonprofit applies for certification as a minority business enterprise or a women's business enterprise.

(h) "Owned and controlled" means:

(1) if the business is a qualified minority nonprofit corporation, a majority of the board of directors are minority;

(2) if the business is a qualified women's nonprofit corporation, a

majority of **the members of** the board of ~~defectors~~ **directors** are women; or

(3) if the business is a business other than a qualified minority or women's nonprofit corporation, having:

(A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(B) control over the management and active in the day-to-day operations of the business; and

(C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(i) "Minority group" means:

(1) Blacks;

(2) American Indians;

(3) Hispanics;

(4) Asian Americans; and

(5) other similar minority groups.

(j) "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

(k) "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.

SECTION 6. IC 4-13-16.5-4, AS AMENDED BY P.L.228-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Before January 1 of even-numbered years, the department shall determine whether, during the most recently completed two (2) year period ending the previous July 1, the goals set under section 2(f)(8) of this chapter have been met.

(b) The department shall adopt rules under IC 4-22-2 to ensure that the goals set under section ~~2(f)(7)~~ **2(f)(8)** of this chapter are met. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may be counted toward the attainment of the goal for either:

(1) minority business enterprises; or

(2) women's business enterprises;

at the election made by the procurer of goods, services, or goods and services, but not both.

SECTION 7. IC 4-15-2-18, AS AMENDED BY P.L.99-2007,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The rating of each test shall be completed and the resulting list established not later than thirty (30) days after the date on which the test was held, unless such time is extended by the director for reasons which the director shall record in the official records of the department. The final earned rating of each person competing in any test shall be determined by the weighted average of the earned ratings of the test, according to weights for each phase established by the director in advance of the giving of the test. The names of all persons attaining the minimum final earned ratings established by the director in advance of the giving of the tests shall be placed upon the eligible list in order of their ratings. The names of persons who have indicated in writing that they are unwilling to accept appointment may be dropped from the list. All persons competing in any test shall be given written notice of their final earned ratings. Statements of former employers of the applicants shall be confidential. A manifest error in rating a test shall be corrected if called to the attention of the director, but such correction shall not invalidate any appointment previously made from such a list.

(b) In certification for appointment, in appointment, in reinstatement, and in reemployment in any state service, preference shall be given to former members of the military services of the United States who served on active duty in any branch of the armed forces and who at no time received a discharge or separation under other than honorable conditions, except corrected separation or discharge to read "honorable" as evidenced by appropriate records presented from the United States Department of Defense or appropriate branch of the military service.

(c) Preference shall be given in the following priorities:

(1) Former members of the military service who have established the present existence of a service connected disability of ten percent (10%) or more, as evidenced by records of the United States Department of Veterans Affairs or disability retirement benefits as evidenced by laws administered by the United States Department of Defense.

(2) The spouse of a veteran with a service connected disability and the unremarried spouse of **a** deceased ~~veterans.~~ **veteran.**

(3) Those former members of the military service who are

wartime veterans.

(4) Veterans of the military service who served more than one hundred eighty-one (181) days on active duty, regardless of when served.

(d) In all written examinations to determine the qualifications of applicants for entrance into state service:

(1) ten (10) points shall be added to the earned rating of persons taking the competitive examination under subsection (c)(1) or (c)(2);

(2) five (5) points shall be added to the earned ratings of persons taking the competitive examination under subsection (c)(3); and

(3) two (2) points shall be added to the earned rating of persons taking the competitive examination under subsection (c)(4).

(e) All points specified in subsection (d) shall be added to the total combined test scores of the person and shall not be allocated to any single feature or part of the competitive examination. Rating shall be based on a scale of one hundred (100) points as the maximum attainable.

(f) When veterans preference in state service employment is limited to wartime veterans, this subsection applies for the purpose of defining "war":

(1) World War II - December 7, 1941, to December 31, 1946.

(2) Korean Conflict - June 27, 1950, to January 31, 1955.

(3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.

(4) Actual combat or duty equally hazardous, regardless of time, or service in any foreign war, insurrection, or expedition, which service is recognized by the award of a service or campaign medal of the United States.

(5) Participation as a regularly assigned crew member of any military craft in a mission in support of a military operation, regardless of time, as designated by the armed forces of the United States.

(g) Active duty consists of:

(1) ninety (90) days or more wartime service;

(2) ninety (90) days or more consecutive service which began or ended during wartime period;

(3) ninety (90) days or more combined service in two (2) or more wartime periods;

(4) service of less than ninety (90) days, if discharged for a disability in the line of duty; or

(5) service qualifying under subsection (f)(4) or (f)(5), which must be documented by appropriate records of the United States Department of Defense.

(h) In examinations where experience is an element of qualification, time spent in the armed forces of the United States shall be credited in a veteran's rating where the veteran's actual employment in a similar vocation to that for which the veteran is examined was interrupted by such service. In all examinations to determine the qualifications of a veteran applicant, credit shall be given for all valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether any compensation was received for the experience.

(i) In determining qualifications for examination, appointment, promotion, retention, transfer, or reinstatement, with respect to preference eligibles, the department shall waive requirements as to age, height, and weight, if the requirement is not essential to the performance of the duties of the position for which examination is given. The department, after giving due consideration to the recommendation of any accredited physician, shall waive the physical requirements in the case of any veteran, if the veteran is, in the opinion of the director, physically able to discharge efficiently the duties of the position for which the examination is given. No minimum educational requirement may be prescribed in any civil service examination except for such scientific, technical, or professional positions, the duties of which the department decides cannot be performed by a person who does not have such education. The director shall make a part of the department's public records the director's reasons for such decision.

(j) The names of preference eligibles shall be entered on the appropriate registers or lists of eligibles in accordance with their respective augmented ratings. The name of a preference eligible shall be entered ahead of all others having the same rating.

(k) The director shall adopt appropriate rules under IC 4-22-2 for the administration and enforcement of this section.

(l) In any reduction in personnel in any state service, competing employees shall be released in accordance with board regulations which shall give due effect to tenure of employment, military

preference, length of service, and efficiency ratings. The length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing length of total service. Veteran's preference points shall be added to the retention score of a preference eligible. When any of the functions of any state agency are transferred to, or when any state agency is replaced by, some other state agency or agencies, all preference employees in the function or functions transferred or in the agency replaced shall first be transferred to the replacing agency or agencies for employment in positions for which they are qualified, before the agency or agencies appoint additional employees from any other sources for such positions.

(m) Any preference eligible who has resigned may, at the request of any appointing officer, be certified for and appointed to any position for which the preference eligible has been a regular employee in the state service.

(n) Any preference eligible who has been furloughed or separated without delinquency or misconduct, upon request, shall have the preference eligible's name placed on all appropriate registers and employment lists, for every position for which the preference eligible's qualifications have been established.

(o) Applicants claiming preference of their own service must submit either:

(1) original discharge or separation or certified copies or photostat copies of the originals;

(2) an official statement from the United States Department of Defense showing record of service; or

(3) an official statement from the United States Department of Veterans Affairs supporting the claim for disability.

SECTION 8. IC 4-15-7-1, AS AMENDED BY P.L.2-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) No person being related to any member of any state board or commission, or to the head of any state office or department or institution, as father, mother, brother, sister, uncle, aunt, a husband or wife, son or daughter, son-in-law or daughter-in-law, niece or nephew, shall be eligible to any position in any such state board, commission, office, or department or institution, as the case may be, nor shall any such relative be entitled to receive any compensation for his or her services out of any appropriation provided by law.

(b) This section shall not apply if such person has been employed in the same position in such office or department or institution for at least twelve (12) consecutive months immediately preceding the appointment of his relative as a board member or head of such office, department, or institution.

(c) This section does not apply to the authority of the board of trustees of a state educational institution to employ any person the board considers necessary under ~~2~~ IC 21-38-3-1.

(d) No persons related as father, mother, brother, sister, uncle, aunt, husband, wife, son, daughter, son-in-law, daughter-in-law, niece, or nephew may be placed in a direct supervisory-subordinate relationship.

SECTION 9. IC 4-22-2-37.1, AS AMENDED BY P.L.204-2007, SECTION 2, AS AMENDED BY P.L.233-2007, SECTION 1, AND AS AMENDED BY P.L.218-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of

the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by *or other date provided by* federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires**.**

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, ~~*or*~~ IC 4-33-4-14, *or IC 4-35-4-2.*

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15. ~~*or IC 12-15-44-19(b).*~~

(22) An emergency rule adopted by the Indiana state board of animal health under ~~IC 15-2.1-18-21.~~ **IC 15-17-10-9.**

(23) An emergency rule adopted by the board of directors of the

Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the

documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 10. IC 4-23-6.5-10, AS ADDED BY P.L.157-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The board shall consult with the Indiana law enforcement academy under ~~IC 36-2-14-22.2~~ **IC 36-2-14-22.3** concerning criminal investigations in the creation of:

(1) the training course for coroners and deputy coroners under ~~IC 36-2-14-22.2(a),~~ **IC 36-2-14-22.3(a);** and

(2) the annual training course for coroners and deputy coroners under ~~IC 36-2-14-22.2(b).~~ **IC 36-2-14-22.3(b).**

SECTION 11. IC 4-23-7.3-14, AS ADDED BY P.L.198-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The state GIS officer shall do the following:

(1) Function as the chief officer for GIS matters for state agencies.

(2) Review and either veto or adopt both the:

(A) state's GIS data standards; and

(B) statewide data integration plan;

as recommended by the IGIC. If either of the recommendations is vetoed, the state GIS officer shall return the recommendation to the IGIC with a message announcing the veto and stating the reasons for the veto. If the IGIC ceases to exist or refuses to make the recommendations listed in this ~~subsection,~~ **subdivision,** the

state GIS officer may develop and adopt state GIS data standards and a statewide data integration plan. The standards and the plan adopted under this ~~subsection~~ **subdivision** must promote interoperability and open use of data with various GIS software, applications, computer hardware, and computer operating systems.

(3) Act as the administrator of:

(A) the state standards and policies concerning GIS data and framework data; and

(B) the statewide data integration plan.

(4) Enforce the state GIS data standards and execute the statewide data integration plan adopted under subdivision (2) through the use of:

(A) GIS policies developed for state agencies; and

(B) data exchange agreements involving an entity other than a state agency.

(5) Coordinate the state data center's duties under this chapter.

(6) Act as the state's representative for:

(A) requesting grants available for the acquisition or enhancement of GIS resources; and

(B) preparing funding proposals for grants to enhance coordination and implementation of GIS.

(7) Review and approve, in accordance with the statewide data integration plan, the procurement of GIS goods and services involving the state data center or a state agency.

(8) Cooperate with the United States Board on Geographic Names established by P.L.80-242 by serving as the chair of a committee formed with the IGIC as the state names authority for Indiana.

(9) Publish a biennial report. The report must include the status and metrics on the progress of the statewide data integration plan.

(10) Represent the state's interest to federal agencies regarding the National Spatial Data Infrastructure.

(11) Serve as the state's primary point of contact for communications and discussions with federal agencies regarding framework data, spatial data exchanges, cost leveraging opportunities, spatial data standards, and other GIS related issues.

(12) Facilitate GIS data cooperation between units of the federal, state, and local governments.

(13) Promote the development and maintenance of statewide GIS data and framework data layers associated with a statewide base map.

(14) Approve and maintain data exchange agreements to which the state data center or a state agency is a party to increase the amount and quality of GIS data and framework data available to the state.

(15) Use personnel made available from state educational institutions to provide technical support to the:

(A) state GIS officer in carrying out the officer's duties under this chapter; and

(B) IGIC.

SECTION 12. IC 4-33-2-11.6, AS AMENDED BY P.L.227-2007, SECTION 45, AND AS AMENDED BY P.L.230-2007, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. "Law enforcement agency" means any of the following:

(1) The gaming agents of the Indiana gaming commission.

(2) The state police department.

(3) The conservation officers of the department of natural resources.

(4) The state excise police of the alcohol and tobacco commission.

(5) The gaming control officers of the Indiana gaming commission.

~~(5)~~ **(6)** *The enforcement department of the securities division of the office of the secretary of state.*

SECTION 13. IC 4-33-12-6, AS AMENDED BY P.L.233-2007, SECTION 16, AND AS AMENDED BY P.L.234-2007, SECTION 280, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling

under IC 4-33-6-21 during the quarter shall be paid to:

(A) the city in which the riverboat is docked, if the city:

(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or

(ii) is contiguous to the Ohio River and is the largest city in the county; and

(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar ($1) is in addition to the one dollar ($1) received under subdivision (1)(B).

(3) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under ~~IC 15-1.5-3.~~ **IC 15-13-3.**

(5) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has

implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Except as provided in subsection (k) *and section 7 of this chapter,* sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat located in a historic hotel district, the treasurer of state shall quarterly pay the following amounts:

(1) ~~*Twenty-five*~~ *Twenty-two* percent ~~*(25%)*~~ *(22%)* of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) ~~*Twenty*~~ *Twenty-two and seventy-five hundredths* percent ~~*(20%)*~~ *(22.75%)* shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide

for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) ~~*Twenty*~~ *Twenty-two and seventy-five hundredths* percent ~~*(20%)*~~ *(22.75%)* shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) ~~*Sixty*~~ *Fifty-four and five-tenths* percent ~~*(60%)*~~ *(54.5%)* shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. ~~*The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body.*~~

~~*(i)*~~ *(2) Five percent (5%) of the admissions tax collected during the quarter shall be paid to* a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). *At least twenty percent (20%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.*

~~*(ii)*~~ *(3) Five percent (5%) of the admissions tax collected during the quarter shall be paid to* a town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). *At least twenty percent (20%) of the taxes received by a town under this*

subdivision must be transferred to the school corporation in which the town is located.

~~*(2) Sixteen*~~ *(4) Twenty* percent ~~*(16%)*~~ *(20%)* of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:

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

(B) contains a historic hotel.

~~*The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.*~~ *At least twenty percent (20%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.*

~~*(3) Nine*~~ *(5) Ten* percent ~~*(9%)*~~ *(10%)* of the admissions tax collected during the quarter shall be paid to the ~~*historic hotel preservation*~~ *Orange County development* commission established under IC 36-7-11.5. *At least one-third (1/3) of the taxes paid to the Orange County development commission under this subdivision must be transferred to the Orange County convention and visitors bureau.*

~~*(4) Twenty-five*~~ *(6) Thirteen* percent ~~*(25%)*~~ *(13%)* of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

~~*(5)*~~ *(7)* Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the Indiana economic development corporation to be used by the corporation for the development and implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:

(A) Job creation and retention.

(B) Infrastructure, including water, wastewater, and storm water infrastructure needs.

(C) Housing.

(D) Workforce training.

(E) Health care.

(F) Local planning.

(G) Land use.

(H) Assistance to regional economic development groups.

(I) Other regional development issues as determined by the Indiana economic development corporation.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents ($0.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent ($0.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under ~~IC 15-1.5-3.~~ **IC 15-13-3.**

(6) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsection (k) *and section 7 of this chapter,* sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) through ~~*(c)(2),*~~ *(c)(4),* or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established

under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid

by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

(1) ~~*exceed*~~ *exceeds* a particular entity's base year revenue; and

(2) would otherwise be due to the entity under this section;

to the property tax replacement fund instead of to the entity.

SECTION 14. IC 4-33-13-5, AS AMENDED BY P.L.233-2007, SECTION 19, AND AS AMENDED BY P.L.234-2007, SECTION 281, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under

section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

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

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

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

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

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

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

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

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

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

(2) ~~*Thirty-seven and one-half*~~ *Nineteen* percent ~~*(37.5%)*~~ *(19%)* shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) ~~*Five*~~ *Eight* percent ~~*(5%)*~~ *(8%)* shall be paid to the ~~*historic hotel preservation*~~ *Orange County development* commission established under IC 36-7-11.5.

(4) ~~*Ten*~~ *Sixteen* percent ~~*(10%)*~~ *(16%)* shall be paid in equal amounts to each town that ~~*(A)*~~ is located in the county in which the riverboat docks and ~~*(B)*~~ contains a historic hotel. ~~*The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.*~~ *The following apply to taxes received by a town under this subdivision:*

(A) At least twenty-five percent (25%) of the taxes must be transferred to the school corporation in which the town is located.

(B) At least twelve and five-tenths percent (12.5%) of the taxes must be transferred to the Orange County convention and visitors bureau.

(5) ~~*Ten*~~ *Nine* percent ~~*(10%)*~~ *(9%)* shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) ~~*Twenty*~~ *Twenty-two and twenty-five hundredths* percent ~~*(20%)*~~ *(22.25%)* shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county

executive.

(B) ~~*Twenty*~~ *Twenty-two and twenty-five hundredths* percent ~~*(20%)*~~ *(22.25%)* shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) ~~*Sixty*~~ *Fifty-five and five-tenths* percent ~~*(60%)*~~ *(55.5%)* shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. ~~*The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body.*~~

~~*(i)*~~ *(6) Five percent (5%) shall be paid to* a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). *At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.*

~~*(ii)*~~ *(7) Five percent (5%) shall be paid to* a town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). *At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.*

(8) Five-tenths percent (0.5%) shall be paid to the Orange County convention and visitors bureau.

(c) For each city and county receiving money under subsection

(a)(2), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year, the treasurer of state shall pay that part of the riverboat wagering taxes that:

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

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

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

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

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

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32.2-7-7.

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

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

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

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

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

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

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

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5).

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

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

(4) For police and fire pensions.

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

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

(1) the entity's base year revenue (as determined under IC 4-33-12-6); minus

(2) the sum of:

(A) the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6; plus

(B) any amounts deducted under IC 6-3.1-20-7.

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

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

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

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

(i) This subsection applies only to the Indiana horse racing commission. For each state fiscal year, the amount of the Indiana horse racing commission's supplemental distribution under subsection (g) must be reduced by the amount required to comply with IC 4-33-12-7(a).

SECTION 15. IC 4-35-6.5-8, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The commission may suspend, revoke, or restrict an occupational ~~licensee~~ **license** for the following reasons:

(1) A violation of this article.

(2) A cause that, if known to the commission, would have disqualified the applicant from receiving the occupational license.

(3) A default in the payment of an obligation or a debt due to the state.

(4) Any other just cause.

SECTION 16. IC 5-1-1-1, AS AMENDED BY P.L.2-2007, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following definitions apply throughout this section:

(1) "Agreement" means any agreement that includes terms, representations, or provisions relating to:

(A) credit enhancement of, or rate covenants supporting, any bonds, notes, evidences of indebtedness, leases, swap

agreements, or other written obligations described in subsection (b);

(B) any indenture or provision regarding any indenture relating to any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);

(C) payment of any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b) in the event of a termination of the agreement; or

(D) public works, capital improvements, or economic development projects.

(2) "Leasing body" means a not-for-profit corporation, limited purpose corporation, or authority that has leased land and a building or buildings to an entity named in subsection (b) other than another leasing body.

(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4.

(b) All bonds, notes, evidences of indebtedness, swap agreements, agreements, leases, or other written obligations issued or executed by or in the name of any:

(1) state agency, county, township, city, incorporated town, school corporation, state educational institution, ~~state educational institution,~~ political subdivision, joint agency created under IC 8-1-2.2, leasing body, separate body corporate and politic, or any other political, municipal, public or quasi-public corporation;

(2) special assessment or taxing district; or

(3) board, commission, authority, or authorized body of any such entity; and

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness, leases, swap agreements, agreements, or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of indebtedness, leases, swap agreements, agreements, or other written obligations have been executed before March 15, 2006. All governance, organizational, or other proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, swap agreements, agreements, or other written obligations were issued or executed or the pledge, dedication or designation of revenues,

conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

(1) entered into by a joint agency created under IC 8-1-2.2; and

(2) used by the members of the joint agency for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, 2006. All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby legalized and declared valid if entered into before March 15, 2006. All proceedings held and actions taken under which interlocal cooperation agreements were executed or entered into are hereby fully legalized and validated.

SECTION 17. IC 5-1-16.5-48, AS ADDED BY P.L.2-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48. The authority may provide for the issuance of bonds of the authority:

(1) to refund any bonds of the authority then outstanding, including the payment of any redemption premium on the bonds and any interest accrued or to accrue to the earlier or any subsequent date of redemption, purchase, or maturity of the bonds; and

(2) if determined advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any part of an addition, improvement, extension, or enlargement ~~or~~ **of** a project.

However, no refunding bonds may be issued unless the authority provides for the payment of rentals adequate to satisfy the requirements of section 34 of this chapter.

SECTION 18. IC 5-2-6-3, AS AMENDED BY P.L.186-2007,

SECTION 3, AS AMENDED BY P.L.192-2007, SECTION 1, AND AS AMENDED BY P.L.216-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex *or violent* offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.

~~*(13)*~~ **(14)** *Develop and manage the gang crime witness protection*

program established by section 21 of this chapter.

~~(14)~~ **(15)** *Identify grants and other funds that can be used to fund the gang crime witness protection program.*

SECTION 19. IC 5-2-6-5, AS AMENDED BY P.L.2-2007, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The institute is composed of:

(1) the trustees; and

(2) a research and information consortium.

(b) The trustees shall:

(1) evaluate and disseminate to the public information concerning the cost and effectiveness of the criminal and juvenile justice systems;

(2) promote coordination and cooperation for the effective administration of the criminal and juvenile justice systems;

(3) establish plans for the criminal and juvenile justice systems and make recommendations concerning the implementation of these plans;

(4) encourage and assist in the organization of an academic consortium for the purpose of engaging in research;

(5) receive, expend, and account for state funds made available for the purposes of this chapter;

(6) apply for and accept gifts and grants (which must be administered as public funds) made for the purposes of this chapter;

(7) enter into lawful agreements as required as a condition for receiving gifts, grants, or other funds for the purposes of this chapter;

(8) employ a director (or directors of divisions) and any necessary staff;

(9) adopt rules, under IC 4-22-2, necessary to carry out the purposes of this chapter; **and**

(10) promulgate guidelines concerning participation in the research and information consortium.

(c) The research and information consortium is composed of state educational institutions that are engaged in criminal or juvenile justice research under the direction of the trustees. A state or local governmental entity may participate in the consortium. The consortium shall act as an advisory body to the institute and perform other related

functions as requested by the trustees.

(d) The trustees shall meet quarterly and at such times as called by the chairman. A majority of the trustees constitutes a quorum for doing business. A majority vote of the trustees is required for passage of any matter put to a vote. The trustees shall establish procedures and requirements with respect to the place and conduct of their meetings.

(e) A trustee is not entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing ~~his~~ **the trustee's** duties. A trustee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with ~~his~~ **the trustee's** duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

SECTION 20. IC 5-2-6-18, AS ADDED BY P.L.195-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "institute" means the Indiana criminal justice institute established by section 3 of this chapter.

(b) The institute shall adopt:

(1) guidelines; and

(2) a reporting form or a specified electronic format, or both;

for the report of methamphetamine abuse by a law enforcement agency under IC 5-2-16.

(c) The guidelines adopted under this section must require a law enforcement agency to report the existence of methamphetamine abuse to the institute on the form or in the specified electronic format adopted by the institute.

(d) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14, **expired June 30, 2007, and repealed)** that the institute determines to be relevant;

(2) may require the institute to report the information concerning methamphetamine abuse to one (1) or more additional agencies or organizations;

(3) must require the institute to maintain reports filed under IC 5-2-16 in a manner that permits an accurate assessment of methamphetamine abuse in Indiana; and

(4) must require a law enforcement agency to report any other

information that the institute determines to be relevant.

SECTION 21. IC 5-9-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** Political subdivisions of the state of Indiana shall allow preference points to eligible armed forces veterans who are being examined for full time employment. Preference points awarded to such veterans on each such examination shall be ten percent (10%) of the total number of points which may be obtained thereon.

(b) To be eligible to receive preference points, under this chapter, a person must have:

~~(a)~~ **(1)** served on active duty in the armed forces of the United States for at least one hundred eighty-one (181) days; and

~~(b)~~ **(2)** received an honorable discharge.

(c) The provisions of this chapter are in lieu of any policy of a political subdivision allowing employment preference for veterans in effect before July 1, 1975.

SECTION 22. IC 5-10-1.1-3.5, AS ADDED BY P.L.234-2007, SECTION 207, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This section applies to an individual who becomes an employee of the state after June 30, 2007.

(b) Unless an employee notifies the state that the employee does not want to enroll in the deferred compensation plan, on day thirty-one (31) of the employee's employment:

(1) the employee is automatically enrolled in the deferred compensation plan; and

(2) the state is authorized to begin deductions as otherwise allowed under this chapter.

(c) The auditor of state shall provide written notice to an employee of the provisions of this chapter. The notice provided under this subsection must:

(1) be provided:

(A) with the employee's first paycheck; and

(B) on paper that is a color that is separate and distinct from the color of the employee's paycheck;

(2) contain a statement concerning:

(A) the purposes of;

(B) procedures for notifying the state that the employee does

not want to enroll in;

(C) the tax consequences of; **and**

(D) the details of the state match for employee contribution to; the deferred compensation plan; **and**

(3) list the telephone number, electronic mail address, and other contact information for the auditor of state, who serves as plan administrator.

(d) Notwithstanding IC 22-2-6, except as provided by subsection (c), the state shall deduct from an employee's compensation as a contribution to the deferred compensation plan established by the state under this chapter an amount equal to the maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this chapter.

(e) An employee may contribute to the deferred compensation plan established by the state under this chapter an amount other than the amount described in subsection (d) by affirmatively choosing to contribute:

(1) a higher amount;

(2) a lower amount; or

(3) zero (0).

SECTION 23. IC 5-10-5.5-12, AS AMENDED BY P.L.180-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(a) of this chapter (relating to early retirement) shall be determined in accordance with ~~section 10(a)~~ **section 10** of this chapter (relating to normal retirement). However, the amount of annual retirement allowance otherwise payable upon early retirement shall be reduced by one-quarter percent (1/4%) for each full month that the date of early retirement precedes the attainment of the participant's sixtieth birthday.

(b) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(b) or 11(c) of this chapter (relating to early retirement) shall be determined in accordance with ~~section 10(a)~~ **section 10** of this chapter (relating to normal retirement).

SECTION 24. IC 5-10-8-2.2, AS AMENDED BY P.L.99-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is at least eighteen (18) years of age and has a physical or mental disability (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees

shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A public safety employee who is retired or has a disability **and** is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5 for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) The eligibility for group health insurance under this section for a public safety employee who is retired or has a disability ends on the

earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than

required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 25. IC 5-10-8.5-16, AS ADDED BY P.L.44-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If a participant meets all of the following conditions, the participant is entitled to receive an additional contribution credited to the participant's subaccount and computed as described in subsection (b):

(1) The participant is:

(A) on the participant's last day of service with **the** participant's employer, eligible for and has applied to receive a normal, unreduced retirement benefit from the public employee retirement fund of which the participant is a member; or

(B) on the participant's last day of service, an elected or appointed officer.

(2) After June 30, 2007, and before July 1, 2017, the participant terminates service:

(A) from the employer; or

(B) as an elected or appointed officer.

(3) By the participant's last day of service, the participant has completed:

(A) fifteen (15) years of service with the employer; or

(B) ten (10) years of service as an elected or appointed officer.

(b) The amount of the contribution to a participant's subaccount under this section is the product of:

(1) the participant's years of service (rounded down to the nearest whole year):

(A) with the participant's employer, determined on the participant's last day of service with the participant's employer; or

(B) as an elected or appointed officer, determined on the participant's last day of service as an elected or appointed officer; multiplied by

(2) one thousand dollars ($1,000).

(c) For a participant who has service with more than one (1) employer, the participant's years of service used in the computation

under subsection (b)(1) is the sum of all of the participant's years of service.

(d) The participant's employer must credit the additional contribution made under this section to the participant's subaccount not later than sixty (60) days after the participant's last day of service.

(e) A participant who meets the requirements to receive an additional contribution under this section may receive the additional contribution only once, regardless of the participant's employment after the payment of the additional contribution.

(f) This section expires July 1, 2017.

SECTION 26. IC 5-10-10-4, AS AMENDED BY P.L.2-2007, SECTION 84, AS AMENDED BY P.L.132-2007, SECTION 4, AND AS AMENDED BY P.L.227-2007, SECTION 56, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state ~~*university, college, or junior college*~~ *educational institution* police officer appointed under ~~*IC 20-12-3.5.*~~ *IC 21-39-4.*

(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

(14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(15) A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

(17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(18) A gaming agent of the Indiana gaming commission.

(19) A person who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) appointed as a special deputy under IC 36-8-10-10.6.

(20) A gaming control officer of the Indiana gaming commission.

SECTION 27. IC 5-13-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The investing officers of two (2) or more political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.

(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

(d) A joint investment fund must be invested and reinvested as a separate and individual fund.

(e) A written master agreement under subsection (a) must provide the following:

(1) A political subdivision may participate in a joint investment fund only with the written authorization of its local board of

finance.

(2) A political subdivision may participate in a joint investment fund only if its legislative body approves the written master agreement.

(3) The board of a joint investment fund shall establish written policies for the investment and reinvestment of joint investment funds in the manner provided by IC 30-4-3-3.

(4) A fund shall be invested and reinvested as prescribed in subdivision (3).

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

(C) provide any other services appropriate and customary for a custodian;

subject to the direction of the board of a joint investment fund.

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment ~~Advisors~~ **Advisers** Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars ($100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to

each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.

SECTION 28. IC 5-14-3-2, AS AMENDED BY P.L.179-2007, SECTION 7, AND AS AMENDED BY P.L.227-2007, SECTION 57, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(d) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(e) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(f) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(g) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(h) "Investigatory record" means information compiled in the course of the investigation of a crime.

(i) "Patient" has the meaning set out in IC 16-18-2-272(d).

(j) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(k) "Provider" has the meaning set out in ~~*IC 16-18-2-295(a)*~~

IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(l) "Public agency", *except as provided in section 2.1 of this chapter,* means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts *that is required by statute, rule, or regulation.*

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting

attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, gaming agents of the Indiana gaming commission, *gaming control officers of the Indiana gaming commission,* and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(m) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(n) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(o) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(p) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 29. IC 5-14-3-4, AS AMENDED BY P.L.172-2007, SECTION 1, AND AS AMENDED BY P.L.179-2007, SECTION 9, IS

CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

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

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

(4) Records containing trade secrets.

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

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

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

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

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

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

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

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

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

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

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However,

certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

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

(A) a public agency;

(B) the state; or

(C) an individual.

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

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

(5) The following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) Library or archival records:

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

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

(i) to qualified researchers;

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

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

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

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

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

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

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

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

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

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

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

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

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

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

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

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

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

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

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 30. IC 5-16-8-1, AS AMENDED BY P.L.6-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Foundry products" means products cast from ferrous and nonferrous metals by foundries in the United States.

(c) "Person" means a natural person, corporation, limited liability company, partnership, or other business unit or association.

(d) "Public agency" means:

(1) the state of Indiana;

(2) ~~its departments, agencies, boards, commissions, and institutions,~~ **a department, agency, board, commission, or institution of the state of Indiana;** ~~and~~ **or**

~~(2)~~ **(3) a** county, city, ~~townships,~~ **township,** school or conservancy ~~districts,~~ **district,** or other governmental ~~units~~ **unit** or ~~districts,~~ **district;**

that ~~let~~ **receives** public bids for construction or other public works under Indiana law.

(e) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.

(f) "United States" refers to the United States of America. The term includes all territory, continental or insular, subject to the jurisdiction of the United States.

SECTION 31. IC 5-20-4-7, AS AMENDED BY P.L.211-2007, SECTION 1, AND AS AMENDED BY P.L.234-2007, SECTION 200, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) There is established the affordable housing and community development fund. The fund shall be administered by the authority under the direction of the authority's board.

(b) The fund consists of the following resources:

(1) Appropriations from the general assembly.

(2) Gifts, grants, and donations of any tangible or intangible property from public or private sources.

(3) Investment income earned on the fund's assets.

(4) Repayments of loans from the fund.

(5) Funds borrowed from the board for depositories insurance fund (IC 5-13-12-7).

(6) Money deposited in the fund under *IC 6-7-2-17* **and** *IC 36-2-7-10.*

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

(d) The money remaining in the fund at the end of a fiscal year does not revert to the state general fund.

(e) Interest earned on the fund may be used by the authority to pay expenses incurred in the administration of the fund.

SECTION 32. IC 6-1.1-1-24, AS ADDED BY P.L.219-2007,

SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. If a transfer from a township assessor to the county assessor of the assessment duties prescribed by this article results from the failure of a person elected to the office of township assessor to attain the certification of a level two assessor-appraiser as provided in ~~IC 3-8-1-23.5,~~ **IC 3-8-1-23.6,** as described in IC 36-2-15-5(e), a reference to the township assessor in this article is considered to be a reference to the county assessor.

SECTION 33. IC 6-1.1-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The owner of a mobile home on the assessment date of a year is liable for the taxes imposed upon the mobile home for that year. Except as provided in subsection (b), the owner shall pay the taxes in two (2) equal, semi-annual installments. These semi-annual installments are due on May 10 and November 10 of the year of assessment.

(b) A county council may adopt an ordinance to require an owner to pay his property tax liability for his mobile home in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars ($25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under ~~IC 6-1.1-22-8~~ **IC 6-1.1-22-8.1** shows that an owner's property tax liability for a particular year for a mobile home is less than twenty-five dollars ($25), the owner shall pay the entire tax liability for the mobile home for that year on May 10 of that year.

SECTION 34. IC 6-1.1-10.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) At any time within twenty (20) years after the date that a business has been designated as a high impact business under section 8 of this chapter, the designating body may determine whether the high impact business owner has substantially complied with the statement of benefits approved under section 9 of this chapter. If the designating body determines that the high impact business owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the high impact business owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the high impact business owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the high impact business owner's compliance with the statement of benefits. The date of the hearing must be not less than fifteen (15) and not more than thirty (30) days after the date on which the notice is mailed.

(b) On the date specified in the notice described in subsection (a)(2), the designating body shall conduct a hearing to further consider the high impact business owner's compliance with the statement of benefits. Based on the information presented at the hearing by the high impact business owner and other interested parties, the designating body shall again determine whether the high impact business owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the high impact business owner. If the designating body determines that the high impact business owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution either:

(1) terminating the high impact business owner's property tax credit under section 10 of this chapter; or

(2) imposing a penalty under section 13 of this chapter if the failure to comply with the statement of benefits occurs more than ten (10) years after the first year in which the high impact business claimed a property tax credit under section 11 of this chapter.

(c) If the designating body adopts a resolution terminating the high impact business owner's property tax credit under this chapter:

(1) the credit does not apply to the next installment of property taxes owed by the high impact business owner or to any subsequent installment of property taxes;

(2) the high impact business owner shall pay the amount determined under section 14(e) of this chapter to the county treasurer; and

(3) the county treasurer shall distribute the money paid under this section in accordance with section 14(f) of this chapter.

(d) If the designating body adopts a resolution terminating a

property tax credit under subsection (b), the designating body shall immediately mail a certified copy of the resolution to:

(1) the high impact business owner; and

(2) the county auditor.

The county auditor shall remove the property tax credit from the tax duplicate and shall notify the county treasurer of the termination of the credit. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by ~~IC 6-1.1-22-8,~~ **IC 6-1.1-22-8.1,** the county treasurer shall immediately mail the high impact business owner a revised statement that reflects the termination of the property tax credit.

(e) A high impact business owner whose property tax credit under section 10 of this chapter is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court, together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the high impact business owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the property tax credit under this chapter and the payment required by this section are not due until after the appeal is finally adjudicated and the termination of the credit is finally determined.

SECTION 35. IC 6-1.1-12-14, AS AMENDED BY P.L.219-2007, SECTION 26, AND AS AMENDED BY P.L.99-2007, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that

the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

(1) the individual served in the military or naval forces of the United States for at least ninety (90) days;

(2) the individual received an honorable discharge;

(3) the individual either:

(A) ~~*is totally disabled;*~~ *has a total disability;* or

(B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); and

(4) the individual's disability is evidenced by:

(A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section.

(b) Except as provided in subsection (c), the surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred ~~*thirteen*~~ *forty-three* thousand *one hundred sixty* dollars ~~*($113,000).*~~ *($143,160).*

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 36. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.137-2007, SECTION 3, AND AS AMENDED BY P.L.219-2007, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

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

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

(2) With respect to:

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

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

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

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

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

The statement of benefits may be incorporated in a designation

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

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

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

(2) With respect to:

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

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

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

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

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

(5) Whether any other benefits about which information was

requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

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

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

(d) Except as provided in subsection (h), and subject to subsection (i) *and section 15 of this chapter,* an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, and subject to subsection (i) *and section 15 of this chapter,* the amount of the deduction that an owner is entitled to for a particular year equals the product of:

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

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

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

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

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

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

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

3rd and thereafter	0%

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

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

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

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

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

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

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

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

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

6th	29%
7th	14%
8th and thereafter	0%

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

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

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

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

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%

11th and thereafter 0%

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

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

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

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

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

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

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

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

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

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or

state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 37. IC 6-1.1-12.1-5.9, AS AMENDED BY P.L.154-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.9. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.

(b) Not later than forty-five (45) days after receipt of the information described in section 5.1, 5.3(j), or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3, 4.5, or 4.8 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of

benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, 4.5, or 4.8 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

(1) the property owner;

(2) the county auditor; and

(3) if the deduction applied under section 4.5 of this chapter, the township assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the

county treasurer has mailed the statement required by ~~IC 6-1.1-22-8,~~ **IC 6-1.1-22-8.1,** the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

SECTION 38. IC 6-1.1-12.4-2, AS AMENDED BY P.L.219-2007, SECTION 34, AND AS AMENDED BY P.L.234-2007, SECTION 38, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) For purposes of this section, an increase in the assessed value of real property is determined in the same manner that an increase in the assessed value of real property is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to a development, redevelopment, or rehabilitation that is first assessed after March 1, 2005, and before March 2, ~~*2009.*~~ *2007.* Except as provided in subsection (h) and sections 4, 5, and 8 of this chapter, an owner of real property that:

(1) develops, redevelops, or rehabilitates the real property; and

(2) creates or retains employment from the development, redevelopment, or rehabilitation;

is entitled to a deduction from the assessed value of the real property.

(c) *Subject to section 14 of this chapter,* the deduction under this section is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs and continues for the following two (2) years. The amount of the

deduction that a property owner may receive with respect to real property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the development, rehabilitation, or redevelopment; multiplied by

(B) the percentage from the following table:

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

(d) A property owner that qualifies for the deduction under this section must file a notice to claim the deduction in the manner prescribed by the department of local government finance under rules adopted by the department of local government finance under IC 4-22-2 to implement this chapter. The township assessor shall:

(1) inform the county auditor of the real property eligible for the deduction as contained in the notice filed by the taxpayer under this subsection; and

(2) inform the county auditor of the deduction amount.

(e) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(f) The amount of the deduction determined under subsection (c)(2) is adjusted to reflect the percentage increase or decrease in assessed valuation that results from:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment under IC 6-1.1-4-4.5.

(g) If an appeal of an assessment is approved that results in a reduction of the assessed value of the real property, the amount of the deduction under this section is adjusted to reflect the percentage decrease that results from the appeal.

(h) The deduction under this section does not apply to a facility listed in IC 6-1.1-12.1-3(e).

SECTION 39. IC 6-1.1-12.4-3, AS AMENDED BY P.L.219-2007, SECTION 35, AND AS AMENDED BY P.L.234-2007, SECTION 39,

IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) For purposes of this section, an increase in the assessed value of personal property is determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to personal property that the owner purchases after March 1, 2005, and before March 2, ~~*2009.*~~ *2007.* Except as provided in sections 4, 5, and 8 of this chapter, an owner that purchases personal property other than inventory (as defined in 50 IAC 4.2-5-1, as in effect on January 1, 2005) that:

(1) was never before used by its owner for any purpose in Indiana; and

(2) creates or retains employment;

is entitled to a deduction from the assessed value of the personal property.

(c) *Subject to section 14 of this chapter,* the deduction under this section is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the purchase of the personal property; multiplied by

(B) the percentage from the following table:

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

(d) If an appeal of an assessment is approved that results in a reduction of the assessed value of the personal property, the amount of the deduction is adjusted to reflect the percentage decrease that results from the appeal.

(e) A property owner must claim the deduction under this section on the owner's annual personal property tax return. The township assessor shall:

(1) identify the personal property eligible for the deduction to the county auditor; and

(2) inform the county auditor of the deduction amount.

(f) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(g) The deduction under this section does not apply to personal property at a facility listed in IC 6-1.1-12.1-3(e).

SECTION 40. IC 6-1.1-12.4-9, AS ADDED BY P.L.193-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. If an official terminates a deduction under section 8 of this chapter:

(1) the official shall immediately mail a certified copy of the determination to:

(A) the property owner; and

(B) if the determination is made by the county assessor or the township assessor, the county auditor;

(2) the county auditor shall:

(A) remove the deduction from the tax duplicate; and

(B) notify the county treasurer of the termination of the deduction; and

(3) if the official's determination to terminate the deduction occurs after the county treasurer has mailed the statement required by ~~IC 6-1.1-22-8,~~ **IC 6-1.1-22-8.1,** the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

SECTION 41. IC 6-1.1-17-3, AS AMENDED BY P.L.219-2007, SECTION 49, AND AS AMENDED BY P.L.224-2007, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.

(b) Beginning in 2009, before August 10 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under ~~*IC 6-1.1-15-1(b);*~~ *IC 6-1.1-15-1(c);*

(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:

(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);

(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;

(C) any credits that apply in the determination of the tax liability; and

(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:

(i) the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review*

(after December 31, 2008); or

(ii) the department of local government finance;

(3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by:

(i) the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008);* or

(ii) the department of local government finance;

it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing;

statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate

adopted under this subsection are credited to the township assistance fund.

(f) A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 42. IC 6-1.1-17-5, AS AMENDED BY P.L.219-2007, SECTION 50, AND AS AMENDED BY P.L.224-2007, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

~~*(1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.*~~

~~*(2) The fiscal body of a municipality, not later than September 30.*~~

~~*(3)*~~ *(1)* The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) September ~~*20*~~ *30* if a resolution adopted under section 5.6(d) of this chapter is in effect.

~~*(4)*~~ *(2)* The proper officers of all other political subdivisions, not later than September ~~*20.*~~ *30.*

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political

subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting *after September 20* of the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* at the board's first meeting *under IC 6-1.1-29-4 after September 20 of that year.*

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 43. IC 6-1.1-17-5.6, AS AMENDED BY P.L.219-2007, SECTION 51, AND AS AMENDED BY P.L.224-2007, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) This section applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000).

(b) Before February 1 of each year, the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers. However, if a resolution adopted under subsection (d) is in effect, the officers shall meet to fix the budget for the ensuing budget year before September ~~*20.*~~ *30.*

(c) Each year, at least two (2) days before the first meeting *after September 20* of the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* held under IC 6-1.1-29-4, the school corporation shall file with the county auditor:

(1) a statement of the tax rate and tax levy fixed by the school corporation for the ensuing budget year;

(2) two (2) copies of the budget adopted by the school corporation for the ensuing budget year; and

(3) any written notification from the department of local government finance under section 16(i) of this chapter that specifies a proposed revision, reduction, or increase in the budget adopted by the school corporation for the ensuing budget year.

Each year the county auditor shall present these items to the county board of tax adjustment *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* at the board's first meeting *after September 20 of that year.*

(d) The governing body of the school corporation may adopt a resolution to cease using a school year budget year and return to using a calendar year budget year. A resolution adopted under this subsection must be adopted after January 1 and before July 1. The school

corporation's initial calendar year budget year following the adoption of a resolution under this subsection begins on January 1 of the year following the year the resolution is adopted. The first six (6) months of the initial calendar year budget for the school corporation must be consistent with the last six (6) months of the final school year budget fixed by the department of local government finance before the adoption of a resolution under this subsection.

(e) A resolution adopted under subsection (d) may be rescinded by a subsequent resolution adopted by the governing body. If the governing body of the school corporation rescinds a resolution adopted under subsection (d) and returns to a school year budget year, the school corporation's initial school year budget year begins on July 1 following the adoption of the rescinding resolution and ends on June 30 of the following year. The first six (6) months of the initial school year budget for the school corporation must be consistent with the last six (6) months of the last calendar year budget fixed by the department of local government finance before the adoption of a rescinding resolution under this subsection.

SECTION 44. IC 6-1.1-18.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a) For purposes of STEP TWO of section 2(a) of this chapter and STEP TWO of section 2(b) of this chapter, the civil taxing unit's taxable property includes all taxable property located in the geographic area subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, regardless of whether that property was located in the geographic area subject to the civil taxing unit's ad valorem property tax levy in the calendar years for which the computation is made.~~

~~(b)~~ For purposes of ~~STEP TWO of section 2(a) of this chapter,~~ STEP THREE of section 3(a) of this chapter and STEP THREE of section 3(b) of this chapter, the assessed value of taxable property is the assessed value of that property as determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for the applicable calendar year, excluding deductions allowed under IC 6-1.1-12 or IC 6-1.1-12.1.

SECTION 45. IC 6-1.1-18.5-12, AS AMENDED BY P.L.219-2007, SECTION 56, AND AS AMENDED BY P.L.224-2007, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Any civil taxing unit

that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before September 20 of the calendar year immediately preceding the ensuing calendar year; or

(2) in the case of a request described in section 16 of this chapter, before

~~*(A)*~~ December 31 of the calendar year immediately preceding the ensuing calendar year; ~~*or*~~

~~*(B) with the approval of the county fiscal body of the county in which the civil taxing unit is located, March 1 of the ensuing calendar year;*~~

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board *or the county board of tax and capital projects review* shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board *or the county board of tax and capital projects review* has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board *or the county board of tax and capital projects review* after having been given written notice from the local government tax control board *or the county board of tax and capital projects*

review requiring that person's attendance; or

(2) fails to produce for the local government tax control board's *or the county board of tax and capital projects review's* use the books and records that the local government tax control board *or the county board of tax and capital projects review* by written notice required the officer or member to produce;

then the local government tax control board *or the county board of tax and capital projects review* may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board *or the county board of tax and capital projects review,* to provide information to the local government tax control board *or the county board of tax and capital projects review,* or to produce books and records for the local government tax control board's *or the county board of tax and capital projects review's* use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 46. IC 6-1.1-18.5-13, AS AMENDED BY P.L.196-2007, SECTION 2, AND AS AMENDED BY P.L.224-2007, SECTION 25, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(2) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's estimate of the unit's share of the costs of operating a court for the first full calendar year in which it is in existence. For purposes of this subdivision, costs of operating a court include:

(A) the cost of personal services (including fringe benefits);

(B) the cost of supplies; and

(C) any other cost directly related to the operation of the court.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and two-hundredths (1.02):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property *or the initial annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5* does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this

chapter.

(4) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars ($10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth

(1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars ($100) of assessed valuation before the increase.

(7) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing

unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent ($0.01) per one hundred dollars ($100) of assessed valuation.

(8) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents ($0.0667) for each one hundred dollars ($100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under

section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in

operation.

(10) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.* Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) *A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.*

Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

(13) A levy increase may be granted under this subdivision only for property taxes first due and payable after December 31, 2009. Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if the civil taxing unit cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter.

SECTION 47. IC 6-1.1-20-3.2, AS AMENDED BY P.L.219-2007, SECTION 61, AND AS AMENDED BY P.L.224-2007, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property *within the political subdivision or*

registered voters residing within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property *within the political subdivision or a registered voter residing* within the political subdivision. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county ~~*auditor*~~ *voter registration office* under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county ~~*auditor,*~~ *voter registration office,* deliver to the county ~~*auditor*~~ *voter registration office* or the county ~~*auditor's*~~ *voter registration office's* designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county ~~*auditor*~~ *voter registration office* shall issue to an owner or owners of real property *within the political subdivision or a registered voter residing* within the political subdivision the number of petition or remonstrance forms requested by the owner or owners *or the registered voter.* Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property *or registered voters;*

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier

witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may ~~*not*~~ be required to identify themselves *as owners of real property or registered voters* and may be allowed to pick up additional copies to distribute to other property owners *or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of real property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as a real property owner must indicate the address of the real property owned by the person in the political subdivision.* The county ~~*auditor*~~ *voter registration office* may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county ~~*auditor*~~ *voter registration office* shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county ~~*auditor*~~ *voter registration office* within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political

subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition or remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

~~(5)~~ *(7)* The county ~~*auditor*~~ *voter registration office* must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within ~~*fifteen*~~ ~~*(15)*~~ *thirty-five (35)* business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county ~~*auditor*~~ *voter registration office* may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property *within the political subdivision and the number of petitioners who are registered voters residing* within the political subdivision.

~~(6)~~ *(8)* If a greater number of *persons who are either* owners of real property *within the political subdivision or registered voters residing* within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county ~~*auditor's*~~ *voter registration office's* certificate under subdivision ~~*(5).*~~ *(7).* Withdrawal of a petition carries the same consequences as a defeat of the petition.

~~(7)~~ *(9)* After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or

objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance *if* required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SECTION 48. IC 6-1.1-21-2, AS AMENDED BY P.L.1-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under ~~IC 6-1.1-22-8(a).~~ **IC 6-1.1-22-8.1.**

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5 is to be filed each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing

units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county) (before its repeal); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 (repealed) were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the

1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 (before its repeal) or IC 20-46-6 for a capital projects fund; plus

(ii) IC 6-1.1-19-10 (before its repeal) or IC 20-46-3 for a racial balance fund; plus

(iii) IC 36-12-12 for a library capital projects fund; plus

(iv) IC 36-10-13-7 for an art association fund; plus

(v) IC 21-2-17 (before its repeal) or IC 20-46-2 for a special education preschool fund; plus

(vi) IC 21-2-11.6 (before its repeal) or IC 20-46-1 for a referendum tax levy fund; plus

(vii) an appeal filed under IC 6-1.1-19-5.1 (before its repeal) or IC 20-45-6-8 for an increase in a school corporation's maximum permissible tuition support levy for certain transfer tuition costs; plus

(viii) an appeal filed under IC 6-1.1-19-5.4 (before its repeal) or IC 20-46-4-10 for an increase in a school corporation's maximum permissible transportation fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19-4.5 (before its repeal), including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 (before its repeal), IC 20-45-3, or any other law; minus

(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE (as effective January 1, 1990) or IC 6-1.1-18.5-19(b) STEP THREE (as effective January 1, 1990), whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year

1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) (as effective before January 1, 1989), filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN (as effective January 1, 1995) for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b) (as effective before March 16, 2004) and IC 12-19-7-4 (as effective after March 15, 2004); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 (before its repeal) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN (as effective January 1, 1995) for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) (as effective before March 16, 2004) and IC 12-19-7-4 (as effective after March 15, 2004) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes that each county auditor is required to prepare each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is, except as otherwise provided by law, equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or

(2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means, except as otherwise provided by law, the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund

for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

(o) "Board" refers to the property tax replacement fund board established under section 10 of this chapter.

SECTION 49. IC 6-1.1-21-2.5, AS AMENDED BY P.L.234-2007, SECTION 296, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) Annually, before the department determines the eligible property tax replacement amount for a year under section 3 of this chapter and the department of local government finance makes its certification under section 3(b) of this chapter, the budget agency shall determine whether the total amount of property tax replacement credits granted in Indiana under section 5 of this chapter and homestead credits granted in Indiana under IC 6-1.1-20.9-2 for a year, determined without applying this section, will be more than the amount appropriated for those purposes for that year. The budget agency shall give notice of its determination to the members of the board and, in an electronic format under IC 5-14-6, the general assembly. If the budget agency determines that the amount of property tax replacement credits and homestead credits granted under IC 6-1.1-20.9-2 for the year will be more than the amount appropriated for those purposes for that year, the board shall do the following:

(1) For calendar years 2008 and 2009, decrease for that year the percentages used to determine a taxpayer's property tax replacement credit amount so that the total amount of property tax replacement credits granted in Indiana under section 5 of this

chapter and homestead credits granted in Indiana under IC 6-1.1-20.9-2 does not exceed the total amount appropriated for those purposes for that year.

(2) For calendar years 2010 and thereafter, decrease for that year in the same proportions:

(A) the percentages used to determine a taxpayer's property tax replacement credit amount; and

(B) ~~and~~ the homestead credit percentage applicable under IC 6-1.1-20.9-2;

so that the total amount of property tax replacement credits granted in Indiana under section 5 of this chapter and homestead credits granted in Indiana under IC 6-1.1-20.9-2 does not exceed the total amount appropriated for those purposes for that year.

(b) The adjusted percentages set under subsection (a):

(1) are the percentages that apply under:

(A) section 5 of this chapter to determine a taxpayer's property tax replacement credit amount; and

(B) IC 6-1.1-20.9-2 to determine a taxpayer's homestead credit; and

(2) must be used by the:

(A) department in estimating the eligible property tax replacement amount under section 3 of this chapter; and

(B) department of local government finance in making its certification under section 3(b) of this chapter;

and for all other purposes under this chapter and IC 6-1.1-20.9 related to distributions under this chapter;

for the particular year covered by a budget agency's determination under subsection (a).

SECTION 50. IC 6-1.1-21-4, AS AMENDED BY P.L.234-2007, SECTION 297, AND AS AMENDED BY P.L.219-2007, SECTION 62, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

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

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

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

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

STEP TWO: Divide:

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

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

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

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

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or, *except as provided in section 9 of this chapter,* receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made

for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

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

(e) Except as provided in subsection (g) and subject to subsection (h), the department shall not distribute under subsection (b) and section 10 of this chapter a percentage, determined by the department, of the money that would otherwise be distributed to the county under subsection (b) and section 10 of this chapter if:

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

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

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

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure ~~*forms*~~ *form data* under ~~*IC 6-1.1-5.5-3(b), IC 6-1.1-5.5-3(h),*~~ **IC 6-1.1-5.5-3(c).**

(5) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(6) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(7) the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

(f) Except as provided in subsection (i), money not distributed for the reasons stated in subsection (e) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(g) The restrictions on distributions under subsection (e) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

SECTION 51. IC 6-1.1-21-5, AS AMENDED BY P.L.219-2007,

SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with ~~IC 6-1.1-22-8(a).~~ **IC 6-1.1-22-8.1.** However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax

replacement. This credit is equal to the product of:

(1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by

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

SECTION 52. IC 6-1.1-21-9, AS AMENDED BY P.L.234-2007, SECTION 298, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) On or before October 15 of each year, each county auditor shall, make a settlement with the department as to the aggregate amount of property tax replacement credits extended to taxpayers in the auditor's county during the first eight (8) months of that same year. On or before December 31 of each year, each county auditor shall make a settlement with the department along with the filing of the county auditor's December settlement as to the aggregate amount of property tax replacement credits extended to taxpayers in the auditor's county during the last four (4) months of that same year. If the aggregate credits allowed during either period exceed the property tax replacement funds allocated and distributed to the county treasurer for that same period, as provided in sections 4 and 5 of this chapter, then the department shall certify the amount of the excess to the auditor of state who shall issue a warrant, payable from the property tax replacement fund, to the treasurer of the state ordering the payment of the excess to the county treasurer. If the distribution exceeds the aggregate credits, the county treasurer shall repay to the treasurer of the state the amount of the excess, which shall be redeposited in the property tax replacement fund.

(b) In making the settlement required by subsection (a), the county auditor shall recognize the fact that any loss of revenue resulting from the provision of homestead credits in excess of the percentage credit allowed in IC 6-1.1-20.9-2(d) must be paid from county option income revenues.

(c) Except as otherwise provided in this chapter, the state board of accounts with the cooperation of the department shall prescribe the accounting forms, records, and procedures required to carry out the provisions of this chapter.

(d) Not later than November 15 of each year, the budget agency shall determine whether the amount distributed to counties under section 10 of this chapter for state property tax replacement credits and

state homestead credits is less than the amount available, as determined by the budget agency, from the appropriation to the property tax replacement board for distribution as state property tax replacement credits and state homestead credits. If the amount distributed is less than the available appropriation, the budget agency shall apportion the excess among the counties in proportion to the final determination of state property tax replacement credits and state homestead credits for each county and certify the excess amount for each county to the department and the department of local government finance. The department shall distribute the certified additional amount for a county to the county treasurer before December 15 of the year. Not later than December 31 in the year, the county treasurer shall allocate the certified additional amount among the taxing units in the county in proportion to the part of the total county tax levy imposed by each taxing unit. The taxing unit shall deposit the allocated amount in the taxing unit's levy excess fund ~~under~~ established under IC 6-1.1-18.5-17 or IC 20-40-10. The allocated amount shall be treated in the same manner as a levy excess (as defined in IC 6-1.1-18.5-17 and IC 20-44-3-2) and shall be used only to reduce the part of the county tax levy imposed by the taxing unit in the immediately following year.

SECTION 53. IC 6-1.1-22-8.1, AS ADDED BY P.L.162-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.1. (a) This section applies only to property taxes and special assessments first due and payable after December 31, 2007.

(b) The county treasurer shall:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; and

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records;

a statement in the form required under subsection (c).

(c) The department of local government finance shall prescribe a form, subject to the approval of the state board of accounts, for the statement under subsection (b) that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or a petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (b).

(d) The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(e) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(f) The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection (c).

(g) The information to be included in the statement under subsection (c) must be simply and clearly presented and understandable to the average individual.

(h) After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 **(expired January 1, 2008, and repealed)** shall be treated as a reference to this section.

SECTION 54. IC 6-1.1-22-8.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.3. If an ordinance is adopted under section 8.2 of this chapter, the treasurer of the adopting county shall include with each statement mailed under ~~section 8~~ **section 8.1** of this chapter a notice describing:

(1) the manner in which a taxpayer may donate money to the county under section 8.2 of this chapter; and

(2) the permissible expenditures of money donated under section 8.2 of this chapter.

SECTION 55. IC 6-1.1-22-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. The county

treasurer shall include on every statement mailed under ~~section 8~~ **section 8.1** of this chapter the following language: "If any circumstances have changed that would make you ineligible for a deduction that you have been allowed in the exemption block on this tax bill, you must notify the county auditor. If such a change in circumstances has occurred and you have not notified the county auditor, the deduction will be disallowed and you will be liable for taxes and penalties on the amount deducted.".

SECTION 56. IC 6-1.1-22-9, AS AMENDED BY P.L.219-2007, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsections (b) and (c), the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

(1) Subsection (c).
(2) Subsection (d).
(3) Subsection (h).
(4) Subsection (i).
(5) IC 6-1.1-7-7.
(6) Section 9.5 of this chapter.

(c) A county council may adopt an ordinance to require a person to pay the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars ($25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under ~~section 8~~ **section 8.1** of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars ($25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) ~~or IC 6-1.1-19-2(g)~~ before the county treasurer mails or transmits statements under ~~section 8(a)~~ **section 8.1(b)** of this chapter, the county treasurer may:

(1) mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or

(2) delay the mailing or transmission of statements under ~~section 8(a)~~ **section 8.1(b)** of this chapter so that:

(A) the due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and

(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

(1) the total amount due for the year;

(2) the total amount of the installments paid that did not reflect the resolution of the appeal under IC 6-1.1-18.5-12(g) ~~or IC 6-1.1-19-2(g)~~ by the department of local government finance;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount that is payable by the taxpayer:

(A) as a final reconciliation of all amounts due for the year; and

(B) not later than:

(i) November 10; or

(ii) the date or dates established under section 9.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(f) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(g) Notwithstanding any other law, a property tax liability of less than five dollars ($5) is increased to five dollars ($5). The difference between the actual liability and the five dollar ($5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

(h) If in a county the notices of general reassessment under IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an assessment date in a calendar year are given to the taxpayers in the county after March 26 of the immediately succeeding calendar year, the property taxes that would otherwise be due under subsection (a) on

May 10 of the immediately succeeding calendar year are due on the later of:

(1) May 10 of the immediately succeeding calendar year; or

(2) forty-five (45) days after the notices are given to taxpayers in the county.

(i) If subsection (h) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (h) are due on the later of:

(1) November 10 of the immediately succeeding calendar year; or

(2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.

SECTION 57. IC 6-1.1-22-9.5, AS AMENDED BY P.L.1-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:

(1) with respect to a homestead (as defined in IC 6-1.1-20.9-1); and

(2) that are not payable in one (1) installment under section 9(c) of this chapter.

(b) At any time before the mailing or transmission of tax statements for a year under ~~section 8~~ **section 8.1** of this chapter, a county may petition the department of local government finance to establish a schedule of installments for the payment of property taxes with respect to:

(1) real property that are based on the assessment of the property in the immediately preceding year; or

(2) a mobile home or manufactured home that is not assessed as real property that are based on the assessment of the property in the current year.

The county fiscal body (as defined in IC 36-1-2-6) must approve a petition under this subsection.

(c) The department of local government finance:

(1) may not establish a date for:

(A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;

(B) the first installment payment that is later than November

10 of the year in which the tax statement is mailed or transmitted; or

(C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and

(2) shall:

(A) prescribe the form of the petition under subsection (b);

(B) determine the information required on the form; and

(C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under ~~section 8~~ **section 8.1** of this chapter:

(1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 20-44-3 for the year in which the property taxes are paid; and

(2) may be:

(A) used to repay temporary loans entered into by a political subdivision for; and

(B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under ~~section 8~~ **section 8.1** of this chapter.

SECTION 58. IC 6-1.1-37-10, AS AMENDED BY P.L.219-2007, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as provided in sections 10.5 and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency. The penalty is equal to an amount determined as follows:

(1) If:

(A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

the amount of the penalty is equal to five percent (5%) of the

amount of delinquent taxes.

(2) If:

(A) an installment of personal property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates of the first and second installments in each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in ~~IC 6-1.1-22-8,~~ **IC 6-1.1-22-8.1,** the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) Subject to subsections (g) and (h), a payment to the county

treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date by the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in United States first class mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) postmarked by the United States Postal Service as mailed on or before the due date;

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received by the express parcel carrier on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic funds transfer and the taxpayer's bank account is charged on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

(1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) makes a duplicate payment within thirty (30) days after the date the person is notified that the payment was not received.

SECTION 59. IC 6-1.1-42-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) Within forty-five (45) days after receipt of the information described in section 29 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits filed under sections 6 and 18 of this chapter.

(b) If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

If a notice mailed to a property owner concerns a statement of benefits approved for personal property under section 24 of this chapter, the designating body shall also mail a copy of the notice to the department of local government finance.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall

again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 24 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

(1) the property owner;

(2) the county auditor; and

(3) the department of local government finance if the deduction was granted for personal property under section 24 of this chapter.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by ~~IC 6-1.1-22-8,~~ **IC 6-1.1-22-8.1,** the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal

is finally adjudicated and the termination of the deduction is finally determined.

SECTION 60. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007, SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount

which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

~~*(23)*~~ **(24)** *Subtract income that is:*

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus

depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

~~*(10)*~~ **(11)** *Subtract income that is:*

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined

in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under

the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal

income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 61. IC 6-3.5-4-7.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.4. (a) If a vehicle has been acquired or brought into Indiana, or for any other reason becomes subject to registration after the regular annual registration date in the year on or before which the owner of the vehicle is required under the motor vehicle registration laws of Indiana to register vehicles, the amount of surtax computed under section 7.3 of this chapter shall be reduced in the same manner as the excise tax is reduced under ~~IC 6-6-5-7.~~ **IC 6-6-5-7.2.**

(b) The owner of a vehicle who sells the vehicle in a year in which the owner has paid the surtax imposed by this chapter is entitled to receive a credit that is calculated in the same manner and subject to the same requirements as the credit for the excise tax under ~~IC 6-6-5-7.~~ **IC 6-6-5-7.2.**

(c) If the name of the owner of a vehicle is legally changed and the change has caused a change in the owner's annual registration date, the

surtax liability of the owner shall be adjusted in the same manner as excise taxes are adjusted under ~~IC 6-6-5-7.~~ **IC 6-6-5-7.2.**

SECTION 62. IC 6-3.5-7-5, AS AMENDED BY P.L.224-2007, SECTION 87, AND AS AMENDED BY P.L.232-2007, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on ~~*January 1*~~ *March 31* of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on ~~*January 1*~~ *March 31* of the year the county economic development tax is imposed; or

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

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

(b) Except as provided in subsections (c), (g), (k), (p), and (r) *and section 28 of this chapter,* the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%);

(6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), (s), (v), ~~*or*~~ (w), ~~*or*~~ *(x),* **or (y),** the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and

twenty-five hundredths percent (1.25%). Except as provided in subsection (g), (p), (r), (t), (u), ~~or~~ (w), ~~or~~ *(x),* **or (y),** the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after ~~*January 1*~~ *March 31* but before ~~*April*~~ *August* 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

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

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

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

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

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

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

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

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are

in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

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

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

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

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

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

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

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

(m) For:

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

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

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

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

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

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

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

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

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

(p) In addition:

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

(2) the:

(A) county economic development income tax; and

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

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

rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) or residential property (as defined in section 26 of this chapter), as appropriate under the ordinance adopted by the adopting body in the county, resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

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

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

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

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

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

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

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

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

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(u) This subsection applies to Scott County. Except as provided in

subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(v) This subsection applies to Jasper County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(w) An additional county economic development income tax rate imposed under section 28 of this chapter may not be considered in calculating any limit under this section on the sum of:

(1) the county economic development income tax rate plus the county adjusted gross income tax rate; or

(2) the county economic development tax rate plus the county option income tax rate.

~~*(w)*~~ **(x)** *The income tax rate limits imposed by subsection (c) or* ~~*(x)*~~ ***(y)*** *or any other provision of this chapter do not apply to:*

(1) a county adjusted gross income tax rate imposed under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26; or

(2) a county option income tax rate imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.

For purposes of computing the maximum combined income tax rate under subsection (c) or ~~*(x)*~~ **(y)** *or any other provision of this chapter that may be imposed in a county under IC 6-3.5-1.1, IC 6-3.5-6, and this chapter, a county's county adjusted gross income tax rate or county option income tax rate for a particular year does not include the county adjusted gross income tax rate imposed under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 or the county option income tax rate imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.*

~~*(x)*~~ **(y)** *This subsection applies to Monroe County. Except as provided in subsection (p), if an ordinance is adopted under IC 6-3.5-6-33, the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).*

SECTION 63. IC 6-6-5-6 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as otherwise provided in this chapter, the excise tax imposed under this chapter upon vehicles shall be payable for each registration year, by the owners thereof in respect to vehicles required to be registered for such registration year as provided in the motor vehicle laws of Indiana. Except as provided in ~~section 7~~ **section 7.2** of this chapter, such excise tax shall be due on or before the regular annual registration date in each year on or before which the owner is required under the motor vehicle registration laws of Indiana to register vehicles and such excise tax shall be paid to the bureau at the time the vehicle is registered by the owner as provided in the motor vehicle registration laws of Indiana. Each vehicle subject to taxation under this chapter shall be registered by the owner thereof as being taxable in the county of the owner's residence. The payment of the excise tax imposed by this chapter shall be a condition to the right to register or reregister the vehicle and shall be in addition to all other conditions prescribed by law.

(b) A voucher from the department of state revenue showing payment of the excise tax imposed by this chapter may be accepted by the bureau in lieu of a payment under subsection (a).

SECTION 64. IC 6-6-5-7.2, AS ADDED BY P.L.184-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (a) This section applies after December 31, 2007.

(b) In respect to a vehicle that has been acquired, or brought into the state, or for any other reason becomes subject to registration after the regular annual registration date in the year on or before which the owner of the vehicle is required, under the motor vehicle registration laws of Indiana, to register vehicles, the tax imposed by this chapter shall become due and payable at the time the vehicle is acquired, brought into the state, or otherwise becomes subject to registration, and the amount of tax to be paid by the owner for the remainder of the year shall be reduced by eight and thirty-three hundredths percent (8.33%) for each full calendar month that has elapsed since the regular annual registration date in the year fixed by the motor vehicle registration laws for annual registration by the owner. The tax shall be paid at the time of the registration of the vehicle.

(c) In the case of a vehicle that is acquired, or brought into the state, or for any other reason becomes subject to registration after January 1

of any year, then the owner may pay the applicable registration fee on the vehicle as provided in the motor vehicle registration laws and any excise tax due on the vehicle for the remainder of the annual registration year and simultaneously register the vehicle and pay the applicable registration fee and the excise tax due for the next succeeding annual registration year.

(d) Except as provided in ~~subsection (f),~~ **subsection (g),** no reduction in the applicable annual excise tax will be allowed to an Indiana resident applicant upon registration of any vehicle that was owned by the applicant on or prior to the registrant's annual registration period. A vehicle owned by an Indiana resident applicant that was located in and registered for use in another state during the same calendar year shall be entitled to the same reduction when registered in Indiana.

(e) The owner of a vehicle who sells the vehicle in a year in which the owner has paid the tax imposed by this chapter shall receive a credit equal to the remainder of:

(1) the tax paid for the vehicle; reduced by

(2) eight and thirty-three hundredths percent (8.33%) for each full or partial calendar month that has elapsed in the registrant's annual registration year before the date of the sale.

The credit shall be applied to the tax due on any other vehicle purchased or subsequently registered by the owner in the same registrant's annual registration year. If the credit is not fully used and the amount of the credit remaining is at least four dollars ($4), the owner is entitled to a refund in the amount of the unused credit. The owner must pay a fee of three dollars ($3) to the bureau to cover costs of providing the refund, which may be deducted from the refund. The bureau shall issue the refund. The bureau shall transfer to the bureau of motor vehicles commission three dollars ($3) of the fee to cover the commission's costs in processing the refund. To claim the credit and refund provided by this subsection, the owner of the vehicle must present to the bureau proof of sale of the vehicle.

(f) Subject to the requirements of ~~subsection (g),~~ **subsection (h),** the owner of a vehicle that is destroyed in a year in which the owner has paid the tax imposed by this chapter, which vehicle is not replaced by a replacement vehicle for which a credit is issued under this section, shall receive a refund in an amount equal to eight and thirty-three

hundredths percent (8.33%) of the tax paid for each full calendar month remaining in the registrant's annual registration year after the date of destruction, but only upon presentation or return to the bureau of the following:

(1) A request for refund on a form furnished by the bureau.

(2) A statement of proof of destruction on an affidavit furnished by the bureau.

(3) The license plate from the vehicle.

(4) The registration from the vehicle.

However, the refund may not exceed ninety percent (90%) of the tax paid on the destroyed vehicle. The amount shall be refunded by a warrant issued by the auditor of the county that received the excise tax revenue and shall be paid out of the special account created for settlement of the excise tax collections under IC 6-6-5-10. For purposes of this subsection, a vehicle is considered destroyed if the cost of repair of damages suffered by the vehicle exceeds the vehicle's fair market value.

(g) If the name of the owner of a vehicle is legally changed and the change has caused a change in the owner's annual registration date, the excise tax liability of the owner shall be adjusted as follows:

(1) If the name change requires the owner to register sooner than the owner would have been required to register if there had been no name change, the owner shall, at the time the name change is reported, be authorized a refund from the county treasurer in the amount of the product of:

(A) eight and thirty-three hundredths percent (8.33%) of the owner's last preceding annual excise tax liability; and

(B) the number of full calendar months between the owner's new regular annual registration month and the next succeeding regular annual registration month that is based on the owner's former name.

(2) If the name change required the owner to register later than the owner would have been required to register if there had been no name change, the vehicle shall be subject to excise tax for the period between the month in which the owner would have been required to register if there had been no name change and the new regular annual registration month in the amount of the product of:

(A) eight and thirty-three hundredths percent (8.33%) of the

owner's excise tax liability computed as of the time the owner would have been required to register if there had been no name change; and

(B) the number of full calendar months between the month in which the owner would have been required to register if there had been no name change and the owner's new regular annual registration month.

(h) In order to claim a credit under ~~subsection (c)~~ **subsection (f)** for a vehicle that is destroyed, the owner of the vehicle must present to the bureau of motor vehicles a valid registration for the vehicle within ninety (90) days of the date that it was destroyed. The bureau shall then fix the amount of the credit that the owner is entitled to receive.

SECTION 65. IC 6-6-5-7.4, AS AMENDED BY P.L.184-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.4. (a) The owner of a vehicle registered with the bureau is entitled to a refund of taxes paid under this chapter if, after the owner's regular registration date:

(1) the owner registers the vehicle for use in another state; and

(2) the owner pays tax for use of the vehicle to another state for the same time period which the tax was paid under this chapter.

~~(b) The refund provided under subsection (a) is equal to:~~

~~(1) the annual license excise tax paid for use of the vehicle by the owner of the vehicle for the year; minus~~

~~(2) ten percent (10%) of the annual license excise tax paid for use of the vehicle for each full or partial calendar month between the date the annual license excise tax was due and the date the owner registered the vehicle for use in another state.~~

~~This subsection expires December 31, 2007.~~

~~(c)~~ **(b)** This subsection applies after December 31, 2007. The refund provided under subsection (a) is equal to:

(1) the annual license excise tax paid for use of the vehicle by the owner of the vehicle for the year; minus

(2) eight and thirty-three hundredths percent (8.33%) of the annual license excise tax paid for use of the vehicle for each full or partial calendar month between the date the annual license excise tax was due and the date the owner registered the vehicle for use in another state.

~~(d)~~ **(c)** To claim the refund provided by this section, the owner of the

vehicle must provide the bureau with:

(1) a request for a refund on a form furnished by the bureau; and

(2) proof that a tax described in subsection (a)(2) was paid.

SECTION 66. IC 6-7-1-28.1, AS AMENDED BY P.L.218-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.1. The taxes, registration fees, fines, or penalties collected under this chapter shall be deposited in the following manner:

(1) Four and twenty-two hundredths percent (4.22%) of the money shall be deposited in a fund to be known as the cigarette tax fund.

(2) Six-tenths percent (0.6%) of the money shall be deposited in a fund to be known as the mental health centers fund.

(3) Fifty-three and sixty-eight hundredths percent (53.68%) of the money shall be deposited in the state general fund.

(4) Five and forty-three hundredths percent (5.43%) of the money shall be deposited into the pension relief fund established in IC 5-10.3-11.

(5) Twenty-seven and five hundredths percent (27.05%) of the money shall be deposited in the Indiana check-up plan trust fund established by ~~IC 12-15-44-17.~~ **IC 12-15-44.2-17.**

(6) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of paying appropriations for Medicaid—Current Obligations, for provider reimbursements.

(7) Four and one-tenth percent (4.1%) of the money shall be deposited in the state general fund for the purpose of paying any appropriation for a health initiative.

(8) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of reimbursing the state general fund for a tax credit provided under IC 6-3.1-31.

The money in the cigarette tax fund, the mental health centers fund, the Indiana check-up plan trust fund, or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and

the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount of that difference. Money deposited under subdivisions (6) through (8) may not be used for any purpose other than the purpose stated in the subdivision.

SECTION 67. IC 6-9-39-5, AS ADDED BY P.L.162-2006, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The fiscal body of a county may collect a county option dog tax imposed under section 3 of this chapter by any combination of the following methods:

(1) By designating one (1) or more persons in the county to collect the tax.

(2) By requiring a person who harbors or keeps a taxable dog to submit a complete and accurate county option dog tax return.

(3) By a method other than a method described in subdivision (1) or (2) as determined by the fiscal body of the county.

(b) A designee under subsection (a)(1) may retain a fee from the tax collected for each taxable dog in an amount determined by the fiscal body not to exceed seventy-five cents ($0.75). A designee shall remit the balance of the money collected to the county treasurer by the tenth day of each month.

(c) If a fiscal body chooses to collect a county option dog tax imposed under section 3 of this chapter by requiring the submission of a county option dog tax return under subsection (a), the county treasurer may include a county option dog tax return form with every property tax statement that is mailed to a person under ~~IC 6-1.1-22-8(a)(1).~~ **IC 6-1.1-22-8.1(b)(1).**

(d) The department of local government finance shall prescribe a county option dog tax return form that a county may use for the reporting of county option dog tax liability.

SECTION 68. IC 7.1-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Forfeiture to State. An officer who makes an arrest for a violation of the provisions of this title shall seize the evidence of the commission of that violation, including any vehicle, automobile, boat, air or water craft, or other conveyance in which alcohol, alcoholic beverages or malt articles are kept, possessed or transported contrary to law, or contrary to a rule or regulation of the commission. The articles and vehicles mentioned in

this section and in ~~IC 1971, 7.1-2-5-5 7.1-2-5-7,~~ **sections 5 through 7 of this chapter** are hereby declared forfeited to the state and shall be seized.

SECTION 69. IC 7.1-3-23-2, AS AMENDED BY P.L.227-2007, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission may:

(1) fine **or** suspend or revoke the permit **of;** or

(2) fine and suspend or revoke the permit of;

a permittee for the violation of a provision of this title **or** of a rule or regulation of the commission. The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature.

(b) The commission shall revoke the permit of a permittee for the violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4. A finding that a permittee has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 must be supported by a preponderance of the evidence.

SECTION 70. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

(2) A person at least eighteen (18) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person **who is** at least nineteen (19) years of age but less than twenty-one (21) years of age ~~who:~~ **and** ~~(A)~~ **who** has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 ~~and (B) serves~~ **from serving** alcoholic beverages in a dining area or family room of a restaurant

or hotel:

~~(i)~~ **(A)** in the course of a person's employment as a waiter, waitress, or server; and

~~(ii)~~ **(B)** under the supervision of a person who:

(i) is at least twenty-one (21) years of age;

(ii) is present at the restaurant or hotel; and

(iii) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

SECTION 71. IC 8-1-17-18.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.1. (a) Any two (2) or more cooperative corporations created under this chapter and operating or authorized to operate in contiguous territory may enter into an agreement for the consolidation of the cooperative corporations, which agreement shall be submitted for the approval of the commission in the manner provided for in section 5 of this chapter. The agreement must set forth the terms and conditions of the consolidation, the name of the proposed consolidated cooperative corporation, the number of its directors, not less than three (3), the time of the annual election, and the names of the persons, not less than three (3), to be directors until the first annual meeting. Each cooperative corporation participating in the consolidation shall call and hold a meeting of its members as provided in section 9 of this chapter, at which the proposal of the consolidation shall be presented. If at each meeting, the consolidation agreement is approved by a resolution adopted by and receiving the affirmative vote of at least three-fourths (3/4) of the members who attend such meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation. The new articles shall be entitled and endorsed "Articles of Consolidation of _____" (the blank space being filled in with the names of the cooperative corporations being consolidated) and must state:**

(1) the names of the cooperative corporations being consolidated;

(2) the name of the consolidated cooperative corporation;

(3) a statement that each consolidating cooperative corporation agrees to the consolidation;

(4) the names and addresses of the directors of the new cooperative corporation; and

(5) the terms and conditions of the consolidation and the mode of carrying the consolidation into effect, including the manner in which members of the consolidating cooperative corporations may or shall become members of the new cooperative corporation.

The new articles of incorporation may contain any provisions not inconsistent with this chapter that are necessary or advisable for the conduct of the business of the new cooperative corporation.

(b) If the commission approves the articles of consolidation under section 5 of this chapter, the articles of consolidation or a certified copy or copies shall be filed, together with the attached copy of the order of the commission under section 5(e)(2) of this chapter, in the same place as the original articles of incorporation. Upon the filings required under section 5(e)(2) of this chapter, the proposed consolidated cooperative corporation, under its designated name, is a body corporate with all the powers of a cooperative corporation as originally formed under this chapter. If the commission does not approve the articles of consolidation, permission for the consolidation shall be denied by the commission.

(c) This section expires June 30, 2009.

SECTION 72. IC 8-1-17-18.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 18.2. (a) Any two (2) or more cooperative corporations created under this chapter and operating or authorized to operate in contiguous territory may enter into an agreement for the consolidation of the cooperative corporations, which agreement shall be submitted for the review of the commission in the manner provided for in section 5 of this chapter. The agreement must set forth the terms and conditions of the consolidation, the name of the proposed consolidated cooperative corporation, the number of its directors, not less than three (3), the time of the annual election, and the names of the persons, not less than three (3), to be directors until the first annual meeting. Each cooperative corporation participating in the consolidation shall call**

and hold a meeting of its members as provided in section 9 of this chapter, at which the proposal of the consolidation shall be presented. If at each meeting the consolidation agreement is approved by a resolution duly adopted and receiving the affirmative vote of at least three-fourths (3/4) of the members who attend each meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation. The new articles shall be entitled and endorsed "Articles of Consolidation of _____" (the blank space being filled in with the names of the cooperative corporations being consolidated) and must state:

(1) the names of the cooperative corporations being consolidated;

(2) the name of the consolidated cooperative corporation;

(3) a statement that each consolidating cooperative corporation agrees to the consolidation;

(4) the names and addresses of the directors of the new cooperative corporation; and

(5) the terms and conditions of the consolidation and the mode of carrying the consolidation into effect, including the manner in which members of the consolidating cooperative corporations may or shall become members of the new cooperative corporation.

The new articles of incorporation may contain any provisions not inconsistent with this chapter that are necessary or advisable for the conduct of the business of the new cooperative corporation.

(b) If the commission approves the articles of consolidation under section 5 of this chapter, the articles of consolidation or a certified copy or copies of the articles shall be filed, together with the attached copy of the order of the commission under section 5(e)(2) of this chapter, in the same place as the original articles of incorporation. Upon the filings required under section 5(g) of this chapter, the proposed consolidated cooperative corporation, under its designated name, is a body corporate with all the powers of a cooperative corporation as originally formed under this chapter.

SECTION 73. IC 8-3-1-21.1, AS AMENDED BY P.L.229-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.1. (a) Upon receiving notice of intent to abandon railroad rights-of-way from any railroad company, the

department shall, upon receipt, notify:

(1) the county executives, county surveyors, and cities and towns of the counties affected;

(2) the Indiana economic development corporation;

(3) the office of tourism development; and

(4) the department of natural resources;

of the notice.

(b) Within one (1) year of a final decision of the Interstate Commerce Commission permitting an abandonment of a railroad right-of-way, the railroad shall remove any crossing control device, railroad insignia, and rails on that part of the right-of-way that serves as a public highway and reconstruct that part of the highway so that it conforms to the standards of the contiguous roadway. The Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the highway may restore the crossing if the unit:

(1) adopts construction specifications for the project; and

(2) enters into an agreement with the railroad concerning the project.

The cost of removing any crossing control device, railroad insignia, rails, or ties under this subsection must be paid by the railroad. The cost of reconstructing the highway surface on the right-of-way must be paid by the Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the crossing.

(c) If a railroad fails to comply with subsection (b), the Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the crossing may proceed with the removal and reconstruction work. The cost of the removal and reconstruction shall be documented by the agency performing the work and charged to the railroad. Work by the agency may not proceed until at least sixty (60) days after the railroad is notified in writing of the agency's intention to undertake the work.

(d) This section does not apply to an abandoned railroad right-of-way on which service is to be reinstated or continued.

(e) As used in this section, "crossing control device" means any traffic control device installed by the railroad and described in the National Railroad Association's manual, Train Operations, Control and Signals Committee, Railroad-Highway Grade-Crossing Protection,

Bulletin No. 7, as an appropriate traffic control device.

(f) Costs not paid by a railroad under subsection (b) may be added to the railroad's property tax statement of current and delinquent taxes and special assessments under ~~IC 6-1.1-22-8.~~ **IC 6-1.1-22-8.1.**

(g) Whenever the Indiana department of transportation notifies the department of natural resources that a railroad intends to abandon a railroad right-of-way under this section, the department of natural resources shall make a study of the feasibility of converting the right-of-way for recreational purposes. The study must be completed within ninety (90) days after receiving the notice from the Indiana department of transportation. If the department of natural resources finds that recreational use is feasible, the department of natural resources shall urge the appropriate state and local authorities to acquire the right-of-way for recreational purposes.

SECTION 74. IC 8-3-1-21.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.3. (a) When a public street or highway intersects with a railroad right-of-way that is not owned by a railroad, the public agency with jurisdiction over the street or highway may:

(1) remove any crossing control devices;

(2) remove railroad insignia, rails, or ties; or

(3) reconstruct the highway so that it conforms with the standards of the intersecting street or highway.

(b) The public agency may not proceed under subsection (a) until the owner of the railroad right-of-way is given written notice of the agency's intention to undertake the work.

(c) The cost of the work shall be documented and charged to the owner, and if not paid by the owner, the cost may be added to the owner's property tax statement of current and delinquent taxes and special assessments under ~~IC 6-1.1-22-8.~~ **IC 6-1.1-22-8.1.**

SECTION 75. IC 8-22-3.5-10, AS AMENDED BY P.L.219-2007, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as provided in subsection (d), if the commission adopts the provisions of this section by resolution, each taxpayer in the airport development zone is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in that year. Except as provided in subsection (d), one-half (1/2) of the credit shall be applied to each

installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the airport development zone:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the special funds under section 9 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the special funds under section 9 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of an airport development zone; and

(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by ~~IC 6-1.1-22-8(a),~~ **IC 6-1.1-22-8.1(b),** each county treasurer shall for each tax statement also deliver to each taxpayer in an airport development zone who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies shall be stated on the notice.

(d) This subsection applies to an airport development zone only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If

property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an airport development zone is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 76. IC 9-18-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Within sixty (60) days of becoming an Indiana resident, a person must register all motor vehicles owned by the person that:

(1) are subject to the motor vehicle excise tax under IC 6-6-5; and

(2) will be operated in Indiana.

(b) Within sixty (60) days after becoming an Indiana resident, a person must register all commercial vehicles owned by the person that:

(1) are subject to the commercial vehicle excise tax under IC 6-6-5.5;

(2) are not subject to proportional registration under the International Registration Plan; and

(3) will be operated in Indiana.

(c) A person must produce evidence concerning the date on which the person became an Indiana resident.

(d) Except as provided in subsection (e), an Indiana resident must register all motor vehicles operated in Indiana.

(e) An Indiana resident who has a legal residence in a state that is not contiguous to Indiana may operate a motor vehicle in Indiana for not more than sixty (60) days without registering the motor vehicle in Indiana.

(f) An Indiana resident who has registered a motor vehicle in Indiana in any previous registration year is not required to register the motor vehicle, is not required to pay motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5 on the motor vehicle, and is exempt from property tax on the motor vehicle for any registration year in which:

(1) the Indiana resident is:

(A) an active member of the armed forces of the United States; and

(B) assigned to a duty station outside Indiana; and

(2) the motor vehicle is not operated inside or outside Indiana.

This subsection may not be construed as granting the bureau authority to require the registration of any vehicle that is not operated in Indiana.

(g) When an Indiana resident registers a motor vehicle in Indiana after the period of exemption described in subsection (f), the Indiana resident may submit an affidavit that:

(1) states facts demonstrating that the motor vehicle is a motor vehicle described in subsection ~~(c),~~ **(f);** and

(2) is signed by the owner of the motor vehicle under penalties of perjury;

as sufficient proof that the owner of the motor vehicle is not required to register the motor vehicle during a registration year described in subsection (f). The commission or bureau may not require the Indiana resident to pay any civil penalty or any reinstatement or other fee that is not also charged to other motor vehicles being registered in the same registration year.

SECTION 77. IC 9-20-6-2, AS AMENDED BY P.L.134-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The Indiana department of transportation or local authority that:

(1) has jurisdiction over a highway or street; and

(2) is responsible for the repair and maintenance of the highway or street;

may, upon proper application in writing and upon good cause shown, grant a permit for transporting heavy vehicles and loads or other objects not conforming to this article, including a vehicle transporting an ocean going container, if the department or authority finds that other traffic will not be seriously affected and the highway or bridge will not be seriously damaged. ~~However,~~

(b) The permit **granted under subsection (a)** must authorize the operation of a tractor-semitrailer and load that:

(1) exceeds the maximum length limitation under this chapter; and

(2) is subject to regulation under this chapter;

from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

~~(b)~~ **(c)** A permit may be issued under this section for the following:

(1) A single trip.

(2) A definite time not exceeding thirty (30) days.

(3) A ninety (90) day period.

(4) A one (1) year period.

~~(c)~~ **(d)** This subsection applies to the transportation of ocean going containers that:

(1) have been sealed at the place of origin and have not been opened except by an agent of the federal government that may inspect the contents;

(2) originated outside the United States; and

(3) ~~is~~ **are** being transported to or from a distribution facility.

The total gross weight, with load of a vehicle or combination of vehicles transporting an ocean going container may not exceed ninety thousand (90,000) pounds. A permit issued under this section must be issued on an annual basis. A permit issued under this subsection may not impose a limit on the number of movements generated by the applicant or operator of a vehicle granted a permit under this subsection.

SECTION 78. IC 9-21-6-3, AS AMENDED BY P.L.40-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who violates this chapter commits a Class B misdemeanor, except as provided in IC 9-21-8-56(d), ~~(f), (g), and (h).~~ **IC 9-21-8-56(f), IC 9-21-8-56(g), and IC 9-21-8-56(h).**

SECTION 79. IC 9-24-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An operator's license or a learner's permit may not be issued to an individual who is under an order entered by a court under ~~IC 35-43-1-2(d).~~ **IC 35-43-1-2(c).**

(b) The bureau shall suspend the operator's license or invalidate the learner's permit of a person who is the subject of an order issued under IC 31-37-19-17 (or IC 31-6-4-15.9(f) before its repeal) or IC 35-43-1-2(c).

SECTION 80. IC 9-24-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The bureau shall, upon receiving a record of conviction of a person upon a charge of driving a vehicle while the person's driving privilege, permit, or license was suspended, extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The

bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in ~~section 6~~ **section 5** of this chapter.

SECTION 81. IC 9-24-12-3, AS AMENDED BY P.L.206-2007, SECTION 2, AND AS AMENDED BY P.L.184-2007, SECTION 41, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in ~~*section*~~ *sections* 11 *and 12* of this chapter, a public passenger chauffeur's license issued under this article expires at midnight of the birthday of the holder that occurs ~~*two (2)*~~ *four (4)* years following the date of issuance.

SECTION 82. IC 9-29-5-2, AS AMENDED BY P.L.234-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The fee for the registration of a motorcycle is twenty-seven dollars ($27). The revenue from this fee shall be allocated as follows:

(1) Seven dollars ($7) to the motorcycle operator safety education fund established by IC 20-30-13-11.

(2) An amount prescribed as a license branch service charge under IC 9-29-3.

(3) Ten dollars ($10) to the spinal cord and brain injury fund ~~under IC 16-41-42-4.~~ **established by IC 16-41-42.2-3.**

(4) The balance to the state general fund for credit to the motor vehicle highway account.

SECTION 83. IC 10-11-2-31, AS AMENDED BY P.L.186-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The superintendent shall adopt:

(1) guidelines; and

(2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-3.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

(1) the department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located;

(3) the county health department or, if applicable, multiple county

health department of the county in which the methamphetamine laboratory is located; and

(4) the Indiana criminal justice institute;

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14, **expired June 30, 2007, and repealed)** that the superintendent determines to be relevant;

(2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;

(3) must require the department to maintain reports filed under IC 5-2-15-3 in a manner permitting an accurate assessment of:

(A) the number of methamphetamine laboratories located in Indiana in a specified period;

(B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent determines to be relevant; and

(4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 84. IC 10-12-5-4, AS AMENDED BY P.L.189-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As an incentive to all employees of the department, the supplemental pension benefits of this chapter shall be increased by more than the fifty percent (50%) increase provided in section 3 of this chapter, at the rate of a five percent (5%) per year increase for each year of active service over twenty (20) years up to thirty (30) years of service, as calculated in ~~section (3)(c)~~ **section 3(c)** of this chapter.

SECTION 85. IC 10-13-3-39, AS AMENDED BY P.L.138-2007, SECTION 2, AND AS AMENDED BY P.L.197-2007, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

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

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

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

(3) A person for whom a national criminal history background check is required under any law relating to the licensing of a home, center, or other facility for purposes of day care or residential care of children.

(4) A person for whom a national criminal history background check is required for purposes of placement of a child in a foster family home, a prospective adoptive home, or the home of a relative or other caretaker, or for purposes of a report concerning an adoption as required by IC 31-19-8.

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

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check. ~~*for convictions described in IC 20-26-5-11.*~~ The department shall respond to the request in conformity with:

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

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

(e) ~~This~~ Subsection **(f):**

(1) applies to a qualified entity that:

(A) is not a school corporation or a special education cooperative; or ~~*that*~~

(B) is a school corporation or a special education cooperative and seeks a national criminal history background check for a

volunteer; *and*

(2) does not apply to a qualified entity that is a:

(A) home health agency licensed under IC 16-27-1; or

(B) personal services agency licensed under IC 16-27-4.

(f) After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the ~~*applicant*~~ *person who is the subject of a request* has been convicted of:

(1) an offense described in IC 20-26-5-11;

(2) in the case of a foster family home, an offense described in IC 31-27-4-13(a);

(3) in the case of a prospective adoptive home, an offense described in IC 31-19-11-1(c);

(4) any other felony; or

(5) any misdemeanor;

and convey the determination to the requesting qualified entity.

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

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

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

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

~~(g)~~ **(h)** This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national

criminal history background check with a private agency.

~~(h)~~ **(i)** *This subsection applies to a qualified entity that is a:*

(1) home health agency licensed under IC 16-27-1; or

(2) personal services agency licensed under IC 16-27-4.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 16-27-2-5(a) and convey the determination to the requesting qualified entity.

SECTION 86. IC 10-17-12-8, AS AMENDED BY P.L.144-2007, SECTION 12, AND AS AMENDED BY P.L.151-2007, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The military family relief fund is established ~~*beginning January 1, 2007,*~~ to provide assistance with food, housing, utilities, medical services, basic transportation, *child care,* and other essential family support expenses that have become difficult to afford for families of Indiana residents who are:

(1) members of:

(A) a reserve component of the armed forces; or

(B) the national guard; and

(2) called to active duty after September 11, 2001.

(b) The ~~*department*~~ *board* shall expend the money in the fund exclusively to provide grants for assistance as described in subsection (a).

(c) The ~~*director*~~ *board* shall administer the fund.

SECTION 87. IC 11-8-8-9, AS AMENDED BY P.L.216-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Not more than seven (7) days before an Indiana sex or violent offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender was orally informed or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was orally informed of the duty to register.

(2) Deliver a form advising the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender received the written notice or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was given the written notice of the duty to register.

(3) Obtain the address where the sex or violent offender expects to reside after the sex or violent offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex or violent offender expects to reside the sex or violent offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex or violent offender.

(b) Not more than seventy-two (72) hours after a sex or violent offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex or violent offender's fingerprints, photograph, and identification factors.

(2) The address where the sex or violent offender expects to reside after the sex or violent offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex or violent offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex or violent offender.

(4) Information regarding the sex or violent offender's past treatment for mental disorders.

(5) Information as to whether the sex or violent offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex or violent offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex or violent offender is sentenced shall perform the duties required under subsections (a) and (b).

(d) For any sex or violent offender who is not committed to the department, the probation office of the sentencing court shall transmit to the department a copy of:

(1) the sex or violent offender's:

~~(1)~~ **(A)** sentencing order; **and**

~~(2)~~ **(B)** presentence investigation; and

~~(3)~~ **(2)** any other information required by the department to make a determination concerning sex or violent offender registration.

SECTION 88. IC 11-8-8-20, AS AMENDED BY P.L.216-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) The department may enter into a compact or agreement with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the change of address, employment, vocation, or enrollment of a sex or violent offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) If the department receives information that a sex or violent offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, or that a sex or violent offender has been convicted in Indiana but not sentenced to the department, the department shall determine:

(1) whether the person is defined as a:

(A) sex offender under IC 11-8-8-4.5; or

(B) sex or violent offender under IC 11-8-8-5;

(2) whether the person is a sexually violent predator under IC 35-38-1-7.5;

(3) the period **for which** the person will be required to register as a sex or violent offender in Indiana; and

(4) any other matter required by law to make a registration determination.

(c) After the department has made a determination under subsection (b), the department shall update the sex and violent offender registry web site and transmit the department's determination to the local law enforcement authority having jurisdiction over the county where the sex or violent offender resides, is employed, and attends school. The department shall transmit:

(1) the sex or violent offender's name, date of relocation, **and** new address (if applicable), the offense or delinquent act committed by the sex or violent offender, and any other available descriptive information;

(2) whether the sex or violent offender is a sexually violent

predator;

(3) the period **for which** the sex or violent offender will be required to register in Indiana; and

(4) anything else required by law to make a registration determination.

SECTION 89. IC 11-10-11.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. While assigned to a community transition program, a person must comply with:

(1) the rules concerning the conduct of persons in the community transition program, including rules related to payments described in ~~sections~~ **section** 12 ~~and 13~~ of this chapter, that are adopted by the community corrections advisory board establishing the program or, in counties that are not served by a community corrections program, that are jointly adopted by the courts in the county with felony jurisdiction; and

(2) any conditions established by the sentencing court for the person.

SECTION 90. IC 12-7-2-140.5, AS ADDED BY P.L.218-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 140.5. "Plan", for purposes of ~~IC 12-15-44,~~ **IC 12-15-44.2,** has the meaning set forth in ~~IC 12-15-44-1.~~ **IC 12-15-44.2-1.**

SECTION 91. IC 12-7-2-144.3, AS ADDED BY P.L.218-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 144.3. "Preventative care services", for purposes of ~~IC 12-15-44,~~ **IC 12-15-44.2,** has the meaning set forth in ~~IC 12-15-44-2.~~ **IC 12-15-44.2-2.**

SECTION 92. IC 12-15-15-1.5, AS AMENDED BY P.L.218-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21;

(2) is not a unit of state or local government; and

(3) is not owned or operated by a unit of state or local government.

(b) For a state fiscal year ending after June 30, 2003, and before July 1, 2007, in addition to reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals described in subsection (a), excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) Subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the nonfederal share of such payment, the first ten million dollars ($10,000,000) of the amount calculated under STEP FOUR for a state fiscal year shall be paid to a hospital described in subsection (a) that has more than sixty thousand (60,000) Medicaid inpatient days.

(B) Following the payment to the hospital under clause (A) and subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the nonfederal share of such payments, the remaining amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services. For purposes of this clause, a hospital's Medicaid inpatient days are the hospital's in-state and paid Medicaid fee for service and managed care days for

the state fiscal year for which services are identified under STEP ONE, as determined by the office.

(C) Subject to IC 12-15-20.7, in the event the entirety of the amount calculated under STEP FOUR is not distributed following the payments made under clauses (A) and (B), the remaining amount may be paid to hospitals described in subsection (a) that are eligible under this clause. A hospital is eligible for a payment under this clause only if the nonfederal share of the hospital's payment is provided by or on behalf of the hospital. The remaining amount shall be paid to those eligible hospitals:

(i) on a pro rata basis in relation to all hospitals eligible under this clause based on the hospitals' Medicaid inpatient days; or

(ii) other payment methodology determined by the office and approved by the Centers for Medicare and Medicaid Services.

(c) As used in this subsection, "Medicaid supplemental payments" means Medicaid payments for hospitals that are in addition to Medicaid fee-for-service payments, Medicaid risk-based managed care payments, and Medicaid disproportionate share payments, and that are included in the Medicaid state plan, including Medicaid safety-net payments, and payments made under **this section and** sections 1.1, 1.3, ~~1.5,~~ 9, and 9.5 of this chapter. For a state fiscal year ending after June 30, 2007, in addition to the reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services reimbursable under this article and under the state Medicaid plan that were provided during the state fiscal year for all hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified in STEP ONE, the office shall calculate the total payments made under this article and under the state Medicaid plan to all hospitals described in subsection (a). A calculation under this STEP excludes a payment made under the following:

(A) IC 12-15-16.
(B) IC 12-15-17.
(C) IC 12-15-19.

STEP THREE: The office shall calculate, under Medicare payment principles, a reasonable estimate of the total amount that would have been paid by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) As used in this clause, "Medicaid inpatient days" are the hospital's in-state paid Medicaid fee for service and risk-based managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office. Subject to the availability of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(c) and remaining in the Medicaid indigent care trust fund under IC 12-15-20-2(8)(G) to serve as the nonfederal share of the payments, the amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis, based on the hospitals' Medicaid inpatient days or in accordance with another payment methodology determined by the office and approved by the Centers for Medicare and Medicaid Services.

(B) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A), the remaining amount shall be paid as described in clauses (C) and (D) to a hospital that is described in subsection (a) and that is described as eligible under this clause. A hospital is eligible for a payment under clause (C) only if the hospital:

(i) has less than sixty thousand (60,000) Medicaid inpatient days annually;

(ii) was eligible for Medicaid disproportionate share hospital

payments in the state fiscal year ending June 30, 1998, or the hospital met the office's Medicaid disproportionate share payment criteria based upon state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001; and

(iii) received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

The payment amount under clause (C) for an eligible hospital is subject to the availability of the nonfederal share of the hospital's payment being provided by the hospital or on behalf of the hospital.

(C) For state fiscal years ending after June 30, 2007, but before July 1, 2009, payments to eligible hospitals described in clause (B) shall be made as follows:

(i) The payment to an eligible hospital that merged two (2) hospitals under a single Medicaid provider number effective January 1, 2004, shall equal one hundred percent (100%) of the hospital's hospital-specific limit for the state fiscal year ending June 30, 2005, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(ii) The payment to an eligible hospital described in clause (B) other than a hospital described in item (i) shall equal one hundred percent (100%) of the hospital's hospital specific limit for the state fiscal year ending June 30, 2004, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(D) For state fiscal years beginning after June 30, 2009, payments to an eligible hospital described in clause (B) shall be made in a manner determined by the office.

(E) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A) and clauses (C) or (D), the remaining

amount may be paid as described in clause (F) to a hospital described in subsection (a) that is described as eligible under this clause. A hospital is eligible for a payment for a state fiscal year under clause (F) if the hospital:

(i) is eligible to receive Medicaid disproportionate share payments for the state fiscal year for which the Medicaid disproportionate share payment is attributable under IC 12-15-19-2.1, for a state fiscal year ending after June 30, 2007; and

(ii) does not receive a payment under clauses (C) or (D) for the state fiscal year.

A payment to a hospital under this clause is subject to the availability of nonfederal matching funds.

(F) Payments to eligible hospitals described in clause (E) shall be made:

(i) to best use federal matching funds available for hospitals that are eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(ii) by using a methodology that allocates available funding under this clause, Medicaid supplemental payments, and payments under IC 12-15-19-2.1, in a manner in which all hospitals eligible under clause (E) receive payments in a manner that takes into account the situation of eligible hospitals that have historically qualified for Medicaid disproportionate share payments and ensures that payments for eligible hospitals are equitable.

(G) If the Centers for Medicare and Medicaid Services does not approve the payment methodologies in clauses (A) through (F), the office may implement alternative payment methodologies that are eligible for federal financial participation to implement a program consistent with the payments for hospitals described in clauses (A) through (F).

(d) A hospital described in subsection (a) may appeal under IC 4-21.5 the amount determined by the office to be paid to the hospital under STEP FIVE of subsections (b) or (c). The distribution to other hospitals under STEP FIVE of subsection (b) or (c) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a

partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) or (c) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based on estimates and trends calculated by the office.

SECTION 93. IC 12-15-15-9.5, AS AMENDED BY P.L.212-2007, SECTION 5, AND AS AMENDED BY P.L.218-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, but before July 1, 2007, a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under subsection (c).

(c) ~~Except as provided in section 9.8 of this chapter and~~ Subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the

Medicaid indigent care trust fund under IC 12-16-7.5-4.5 for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP EIGHT of subsection

(c) for the state fiscal year ending June 30, 2007, shall be paid an amount equal to the amount determined for the hospital under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007.

(e) A hospital's payment under subsection (c) or (d) is in the form of a Medicaid supplemental payment. The amount of the hospital's add-on payment is subject to the availability of funding for the nonfederal share of the payment under subsection (f). The office shall make the payments under subsection (c) or (d) before December 15 that next succeeds the end of the state fiscal year.

(f) The nonfederal share of a payment to a hospital under subsection (c) or (d) is derived from funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 and not expended under section 9 of this chapter.

(g) Except as provided in subsection (h), the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

(h) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(i) Any funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5 remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8).

~~(i)~~ **(j)** For purposes of subsection (c):

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a

payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 94. IC 12-15-29-2, AS AMENDED BY P.L.187-2007, SECTION 4, AND AS AMENDED BY P.L.234-2007, SECTION 209, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to subsection (b), an insurer shall furnish records or information pertaining to the coverage of an individual for the individual's medical costs under an individual or a group policy or other obligation, or the medical benefits paid or claims made under a policy or an obligation, if the office *or its agent* does the following:

(1) Requests the information electronically or by United States mail.

(2) Certifies that the individual is:

(A) a Medicaid applicant or recipient; or

(B) a person who is legally responsible for the applicant or recipient.

(b) The office may request only the records or information necessary to determine whether insurance benefits have been or should have been claimed and paid with respect to items of medical care and services that were received by a particular individual and for which Medicaid coverage would otherwise be available.

SECTION 95. IC 12-15-35-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. The criteria and standards developed under ~~section 28(3)~~ **section 28(a)(3)** of this chapter for appropriate prescribing that are implemented must reflect the local practices of physicians to monitor the following:

(1) Therapeutic appropriateness.

(2) Overutilization or underutilization.

(3) Therapeutic duplication.

(4) Drug-disease contraindications.

(5) Drug-drug interactions.

(6) Incorrect drug dosage or duration of drug treatment.

(7) Clinical abuse and misuse.

SECTION 96. IC 12-15-35-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) An intervention developed under ~~section 28(4)~~ **section 28(a)(4)** of this

chapter that involves a physician must be approved by at least three (3) of the four (4) physician members of the board before implementation.

(b) An intervention that involves a pharmacist must be approved by at least three (3) of the four (4) pharmacist members of the board before implementation.

(c) Interventions include the following:

(1) Information disseminated to physicians and pharmacists to ensure that physicians and pharmacists are aware of the board's duties and powers.

(2) Written, oral, or electronic reminders of recipient-specific or drug-specific information that are designed to ensure recipient, physician, and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care.

(3) Use of face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention.

(4) Intensified reviews or monitoring of selected prescribers or pharmacists.

(5) The creation of an educational program using data provided through DUR to provide for active and ongoing educational outreach programs to improve prescribing and dispensing practices.

(6) The timely evaluation of interventions to determine if the interventions have improved the quality of care.

(7) The review of case profiles before the conducting of an intervention.

SECTION 97. IC 12-15-44.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 44.1. Coordination of Benefits Study

Sec. 1. As used in this chapter, "covered entity" has the meaning set forth in 45 CFR 160.103.

Sec. 2. (a) Before January 1, 2008, the office shall do the following:

(1) Examine all Medicaid claims paid after January 1, 2001, and before July 1, 2007.

(2) Determine the claims examined under subdivision (1) that

were eligible for payment by a third party other than Medicaid.

(3) Recover the costs associated with the claims determined under subdivision (2) to be eligible for payment by a third party other than Medicaid.

(b) If the office requests a covered entity to furnish information to complete the examination required by this section, the covered entity shall furnish the requested information to the office.

Sec. 3. (a) The office is authorized to transmit the minimum human identifiers in ANSI X.12 270 inquiries, including the name, gender, and date of birth of a Medicaid recipient, to a covered entity licensed or registered to provide health insurance or health care coverage to Indiana residents for the purpose of establishing the coverage in force of a Medicaid recipient who presents a claim.

(b) A health plan that receives a message described in subsection (a) from the office or its agent shall respond to the office or its agent within twenty-four (24) hours.

(c) An entity licensed or registered to provide health insurance or health care coverage to Indiana residents that refuses an ANSI X.12 270 message described in subsection (a) that was transmitted to the entity by the office or its agent is subject to a fine for each refusal in an amount not to exceed one thousand dollars ($1,000) for each refusal.

(d) The office may impose the fine described in subsection (c).

Sec. 4. The office, any medical provider wishing to bill Indiana Medicaid, or any health plan has a cause of action for injunctive relief against any health plan that fails to comply with this chapter. A plaintiff seeking relief under this section may recover costs of litigation, including attorney's fees.

Sec. 5. If the office or its agent furnishes evidence that a health plan has refused or failed to respond to messages described in section 3(a) of this chapter transmitted by the office or its agent to the health plan, the attorney general shall:

(1) subpoena the enrollment data of any entity that refuses or fails to respond to the messaging described in section 3(a) of this chapter;

(2) commence a complaint under 42 U.S.C. 1320d-5 for administrative sanctions under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191); and

(3) commence a prosecution under U.S.C. 1035 or IC 5-11-5.5 of any entity that refuses or fails to respond to the messaging described under section 3(a) of this chapter.

Sec. 6. (a) If, after the office completes its examination under section 2 of this chapter, the office determines that the number of claims determined under section 2(a)(2) of this chapter is at least one percent (1%) of the number of claims examined under section 2(a)(1) of this chapter, the office shall develop and implement a procedure to improve the coordination of benefits between:

(1) the Medicaid program; and

(2) entities that provide health coverage to a Medicaid recipient.

(b) If a procedure is developed and implemented under subsection (a), the procedure:

(1) must be automated; and

(2) must have the capability to determine whether a Medicaid claim is eligible for payment by an entity other than the Medicaid program before the claim is paid under the Medicaid program.

SECTION 98. IC 12-15-44.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 44.2. Indiana Check-Up Plan

Sec. 1. As used in this chapter, "plan" refers to the Indiana check-up plan established by section 3 of this chapter.

Sec. 2. As used in this chapter, "preventative care services" means care that is provided to an individual to prevent disease, diagnose disease, or promote good health.

Sec. 3. (a) The Indiana check-up plan is established.

(b) The office shall administer the plan.

(c) The department of insurance and the office of the secretary shall provide oversight of the marketing practices of the plan.

(d) The office shall promote the plan and provide information to potential eligible individuals who live in medically underserved rural areas of Indiana.

(e) The office shall, to the extent possible, ensure that enrollment in the plan is distributed throughout Indiana in proportion to the number of individuals throughout Indiana who are eligible for participation in the plan.

(f) The office shall establish standards for consumer protection, including the following:

(1) Quality of care standards.

(2) A uniform process for participant grievances and appeals.

(3) Standardized reporting concerning provider performance, consumer experience, and cost.

(g) A health care provider that provides care to an individual who receives health insurance coverage under the plan shall participate in the Medicaid program under IC 12-15.

(h) The office of the secretary may refer an individual who:

(1) has applied for health insurance coverage under the plan; and

(2) is at high risk of chronic disease;

to the Indiana comprehensive health insurance association for administration of the individual's plan benefits under IC 27-8-10.1.

(i) The following do not apply to the plan:

(1) IC 12-15-6.

(2) IC 12-15-12.

(3) IC 12-15-13.

(4) IC 12-15-14.

(5) IC 12-15-15.

(6) IC 12-15-21.

(7) IC 12-15-26.

(8) IC 12-15-31.1.

(9) IC 12-15-34.

(10) IC 12-15-35.

(11) IC 12-15-35.5.

(12) IC 16-42-22-10.

Sec. 4. (a) The plan must include the following in a manner and to the extent determined by the office:

(1) Mental health care services.

(2) Inpatient hospital services.

(3) Prescription drug coverage.

(4) Emergency room services.

(5) Physician office services.

(6) Diagnostic services.

(7) Outpatient services, including therapy services.

(8) Comprehensive disease management.

(9) Home health services, including case management.

(10) Urgent care center services.

(11) Preventative care services.

(12) Family planning services:

(A) including contraceptives and sexually transmitted disease testing, as described in federal Medicaid law (42 U.S.C. 1396 et seq.); and

(B) not including abortion or abortifacients.

(13) Hospice services.

(14) Substance abuse services.

(b) The plan must do the following:

(1) Offer coverage for dental and vision services to an individual who participates in the plan.

(2) Pay at least fifty percent (50%) of the premium cost of dental and vision services coverage described in subdivision (1).

(c) An individual who receives the dental or vision coverage offered under subsection (b) shall pay an amount determined by the office for the coverage. The office shall limit the payment to not more than five percent (5%) of the individual's annual household income. The payment required under this subsection is in addition to the payment required under section 11(b)(2) of this chapter for coverage under the plan.

(d) Vision services offered by the plan must include services provided by an optometrist.

(e) The plan must comply with any coverage requirements that apply to an accident and sickness insurance policy issued in Indiana.

(f) The plan may not permit treatment limitations or financial requirements on the coverage of mental health care services or substance abuse services if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

Sec. 5. (a) The office shall provide to an individual who participates in the plan a list of health care services that qualify as preventative care services for the age, gender, and preexisting conditions of the individual. The office shall consult with the federal Centers for Disease Control and Prevention for a list of recommended preventative care services.

(b) The plan shall, at no cost to the individual, provide payment

for not more than five hundred dollars ($500) of qualifying preventative care services per year for an individual who participates in the plan. Any additional preventative care services covered under the plan and received by the individual during the year are subject to the deductible and payment requirements of the plan.

Sec. 6. The plan has the following per participant coverage limitations:

(1) An annual individual maximum coverage limitation of three hundred thousand dollars ($300,000).

(2) A lifetime individual maximum coverage limitation of one million dollars ($1,000,000).

Sec. 7. The following requirements apply to funds appropriated by the general assembly to the plan:

(1) At least eighty-five percent (85%) of the funds must be used to fund payment for health care services.

(2) An amount determined by the office of the secretary to fund:

(A) administrative costs of; and

(B) any profit made by;

an insurer or a health maintenance organization under a contract with the office to provide health insurance coverage under the plan. The amount determined under this subdivision may not exceed fifteen percent (15%) of the funds.

Sec. 8. The plan is not an entitlement program. The maximum enrollment of individuals who may participate in the plan is dependent on funding appropriated for the plan.

Sec. 9. (a) An individual is eligible for participation in the plan if the individual meets the following requirements:

(1) The individual is at least eighteen (18) years of age and less than sixty-five (65) years of age.

(2) The individual is a United States citizen and has been a resident of Indiana for at least twelve (12) months.

(3) The individual has an annual household income of not more than two hundred percent (200%) of the federal income poverty level.

(4) The individual is not eligible for health insurance coverage through the individual's employer.

(5) The individual has not had health insurance coverage for

at least six (6) months.

(b) The following individuals are not eligible for the plan:

(1) An individual who participates in the federal Medicare program (42 U.S.C. 1395 et seq.).

(2) A pregnant woman for purposes of pregnancy related services.

(3) An individual who is eligible for the Medicaid program as a disabled person.

(c) The eligibility requirements specified in subsection (a) are subject to approval for federal financial participation by the United States Department of Health and Human Services.

Sec. 10. (a) An individual who participates in the plan must have a health care account to which payments may be made for the individual's participation in the plan only by the following:

(1) The individual.

(2) An employer.

(3) The state.

(b) The minimum funding amount for a health care account is the amount required under section 11 of this chapter.

(c) An individual's health care account must be used to pay the individual's deductible for health care services under the plan.

(d) An individual may make payments to the individual's health care account as follows:

(1) An employer withholding or causing to be withheld from an employee's wages or salary, after taxes are deducted from the wages or salary, the individual's contribution under this chapter and distributed equally throughout the calendar year.

(2) Submission of the individual's contribution under this chapter to the office to deposit in the individual's health care account in a manner prescribed by the office.

(3) Another method determined by the office.

(e) An employer may make, from funds not payable by the employer to the employee, not more than fifty percent (50%) of an individual's required payment to the individual's health care account.

Sec. 11. (a) An individual's participation in the plan does not begin until an initial payment is made for the individual's participation in the plan. A required payment to the plan for the individual's participation may not exceed one-twelfth (1/12) of the

annual payment required under subsection (b).

(b) To participate in the plan, an individual shall do the following:

(1) Apply for the plan on a form prescribed by the office. The office may develop and allow a joint application for a household.

(2) If the individual is approved by the office to participate in the plan, contribute to the individual's health care account the lesser of the following:

(A) One thousand one hundred dollars ($1,100) per year, less any amounts paid by the individual under the:

(i) Medicaid program under IC 12-15;

(ii) children's health insurance program under IC 12-17.6; and

(iii) Medicare program (42 U.S.C. 1395 et seq.);

as determined by the office.

(B) Not more than the following applicable percentage of the individual's annual household income per year, less any amounts paid by the individual under the Medicaid program under IC 12-15, the children's health insurance program under IC 12-17.6, and the Medicare program (42 U.S.C. 1395 et seq.) as determined by the office:

(i) Two percent (2%) of the individual's annual household income per year if the individual has an annual household income of not more than one hundred percent (100%) of the federal income poverty level.

(ii) Three percent (3%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred percent (100%) and not more than one hundred twenty-five percent (125%) of the federal income poverty level.

(iii) Four percent (4%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred twenty-five percent (125%) and not more than one hundred fifty percent (150%) of the federal income poverty level.

(iv) Five percent (5%) of the individual's annual

household income per year if the individual has an annual household income of more than one hundred fifty percent (150%) and not more than two hundred percent (200%) of the federal income poverty level.

(c) The state shall contribute the difference to the individual's account if the individual's payment required under subsection (b)(2) is less than one thousand one hundred dollars ($1,100).

(d) If an individual's required payment to the plan is not made within sixty (60) days after the required payment date, the individual may be terminated from participation in the plan. The individual must receive written notice before the individual is terminated from the plan.

(e) After termination from the plan under subsection (d), the individual may not reapply to participate in the plan for twelve (12) months.

Sec. 12. (a) An individual who is approved to participate in the plan is eligible for a twelve (12) month plan period. An individual who participates in the plan may not be refused renewal of participation in the plan for the sole reason that the plan has reached the plan's maximum enrollment.

(b) If the individual chooses to renew participation in the plan, the individual shall complete a renewal application and any necessary documentation, and submit to the office the documentation and application on a form prescribed by the office.

(c) If the individual chooses not to renew participation in the plan, the individual may not reapply to participate in the plan for at least twelve (12) months.

(d) Any funds remaining in the health care account of an individual who renews participation in the plan at the end of the individual's twelve (12) month plan period must be used to reduce the individual's payments for the subsequent plan period. However, if the individual did not, during the plan period, receive all qualified preventative services recommended as provided in section 5 of this chapter, the state's contribution to the health care account may not be used to reduce the individual's payments for the subsequent plan period.

(e) If an individual is no longer eligible for the plan, does not renew participation in the plan at the end of the plan period, or is terminated from the plan for nonpayment of a required payment,

the office shall, not more than sixty (60) days after the last date of participation in the plan, refund to the individual the amount determined under subsection (f) of any funds remaining in the individual's health care account as follows:

(1) An individual who is no longer eligible for the plan or does not renew participation in the plan at the end of the plan period shall receive the amount determined under STEP FOUR of subsection (f).

(2) An individual who is terminated from the plan due to nonpayment of a required payment shall receive the amount determined under STEP FIVE of subsection (f).

(f) The office shall determine the amount payable to an individual described in subsection (e) as follows:

STEP ONE: Determine the total amount paid into the individual's health care account under section 10(d) of this chapter.

STEP TWO: Determine the total amount paid into the individual's health care account from all sources.

STEP THREE: Divide STEP ONE by STEP TWO.

STEP FOUR: Multiply the ratio determined in STEP THREE by the total amount remaining in the individual's health care account.

STEP FIVE: Multiply the amount determined under STEP FOUR by seventy-five hundredths (0.75).

Sec. 13. Subject to appeal to the office, an individual may be held responsible under the plan for receiving nonemergency services in an emergency room setting, including prohibiting the individual from using funds in the individual's health care account to pay for the nonemergency services. However, an individual may not be prohibited from using funds in the individual's health care account to pay for nonemergency services provided in an emergency room setting for a medical condition that arises suddenly and unexpectedly and manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine to:

(1) place an individual's health in serious jeopardy;

(2) result in serious impairment to the individual's bodily

functions; or

(3) result in serious dysfunction of a bodily organ or part of the individual.

Sec. 14. (a) An insurer or health maintenance organization that contracts with the office to provide health insurance coverage, dental coverage, or vision coverage to an individual that participates in the plan:

(1) is responsible for the claim processing for the coverage;

(2) shall reimburse providers at a reimbursement rate of:

(A) not less than the federal Medicare reimbursement rate for the service provided; or

(B) at a rate of one hundred thirty percent (130%) of the Medicaid reimbursement rate for a service that does not have a Medicare reimbursement rate; and

(3) may not deny coverage to an eligible individual who has been approved by the office to participate in the plan, unless the individual has met the coverage limitations described in section 6 of this chapter.

(b) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan must incorporate cultural competency standards established by the office. The standards must include standards for nonEnglish speaking, minority, and disabled populations.

Sec. 15. (a) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan or an affiliate of an insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan shall offer to provide the same health insurance coverage to an individual who:

(1) has not had health insurance coverage during the previous six (6) months; and

(2) meets the eligibility requirements specified in section 9 of this chapter for participation in the plan but is not enrolled because the plan has reached maximum enrollment.

(b) The insurance underwriting and rating practices applied to health insurance coverage offered under subsection (a) must not be different from underwriting and rating practices used for the health insurance coverage provided under the plan.

(c) The state does not provide funding for health insurance

coverage received under this section.

Sec. 16. (a) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan or an affiliate of an insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan shall offer to provide the same health insurance coverage to an individual who:

(1) has not had health insurance coverage during the previous six (6) months; and

(2) does not meet the eligibility requirements specified in section 9 of this chapter for participation in the plan.

(b) An insurer, a health maintenance organization, or an affiliate described in subsection (a) may apply to health insurance coverage offered under subsection (a) the insurer's, health maintenance organization's, or affiliate's standard individual or small group insurance underwriting and rating practices.

(c) The state does not provide funding for health insurance coverage received under this section.

Sec. 17. (a) The Indiana check-up plan trust fund is established for the following purposes:

(1) Administering a plan created by the general assembly to provide health insurance coverage for low income residents of Indiana under this chapter.

(2) Providing copayments, preventative care services, and premiums for individuals enrolled in the plan.

(3) Funding tobacco use prevention and cessation programs, childhood immunization programs, and other health care initiatives designed to promote the general health and well being of Indiana residents.

The fund is separate from the state general fund.

(b) The fund shall be administered by the office of the secretary of family and social services.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund shall consist of the following:

(1) Cigarette tax revenues designated by the general assembly to be part of the fund.

(2) Other funds designated by the general assembly to be part of the fund.

(3) Federal funds available for the purposes of the fund.

(4) Gifts or donations to the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money must be appropriated before funds are available for use.

(g) Money in the fund does not revert to the state general fund at the end of any fiscal year.

(h) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

Sec. 18. (a) The office may not:

(1) enroll applicants;

(2) approve any contracts with vendors to provide services or administer the plan;

(3) incur costs other than costs necessary to study and plan for the implementation of the plan; or

(4) create financial obligations for the state;

unless both of the conditions of subsection (b) are satisfied.

(b) The office may not take any action described in subsection (a) unless:

(1) there is a specific appropriation from the general assembly to implement the plan; and

(2) after review by the budget committee, the budget agency approves an actuarial analysis that reflects a determination that sufficient funding is reasonably estimated to be available to operate the plan for at least the following five (5) years.

The actuarial analysis approved under subdivision (2) must clearly indicate the cost and revenue assumptions used in reaching the determination.

(c) The office may not operate the plan in a manner that would obligate the state to financial participation beyond the level of state appropriations authorized for the plan.

Sec. 19. (a) The office may adopt rules under IC 4-22-2 necessary to implement this chapter.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the plan on an emergency basis.

(c) Notwithstanding IC 12-8-1-9 and IC 12-8-3, rules adopted under this section before January 1, 2009, are not subject to review or approval by the family and social services committee established by IC 12-8-3-2. This subsection expires December 31, 2009.

Sec. 20. (a) The office may establish a health insurance coverage premium assistance program for individuals who:

(1) have an annual household income of not more than two hundred percent (200%) of the federal income poverty level; and

(2) are eligible for health insurance coverage through an employer but cannot afford the health insurance coverage premiums.

(b) A program established under this section must:

(1) contain eligibility requirements that are similar to the eligibility requirements of the plan;

(2) include a health care account as a component; and

(3) provide that an individual's payment:

(A) to a health care account; or

(B) for a health insurance coverage premium;

may not exceed five percent (5%) of the individual's annual income.

Sec. 21. A denial of federal approval and federal financial participation that applies to any part of this chapter does not prohibit the office from implementing any other part of this chapter that:

(1) is federally approved for federal financial participation; or

(2) does not require federal approval or federal financial participation.

SECTION 99. IC 12-29-1-5, AS AMENDED BY P.L.219-2007, SECTION 96, AND AS AMENDED BY P.L.224-2007, SECTION 101, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008).*

(5) The right of taxpayers *and voters* to remonstrate against the issuance of bonds.

SECTION 100. IC 13-30-10-3, AS ADDED BY P.L.137-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person who:

(1) knowingly, intentionally, or recklessly violates:

(A) the terms of a permit relating to water pollution control issued by the department; or

(B) a water pollution control law; and

(2) discharges any substance into waters or into a public sewer, if the discharge results in:

(A) a substantial risk of serious bodily injury;

(B) serious bodily injury to an individual;

(C) the death of a vertebrate animal; or

(D) damage to the environment that renders the environment unfit for human or vertebrate animal life, or causes damage to an endangered, an at risk, or a threatened species;

commits a Class D felony. However, the offense is a Class C felony if it results in the death of another person.

(b) It is a defense to a prosecution under this section that:

(1) the person did not know and could not reasonably have been expected to know that the substance discharged into waters or into a public sewer was capable of causing a result described in subsection (a)(2); or

(2) the discharge was the result of a combined sewer overflow, and the person notified the department in a timely manner.

(c) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or IC 35-50-3-2, the court may order a person convicted under this section to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more

than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars ($100,000) for each ~~per~~ day of violation.

In determining the amount of a fine imposed for a violation of this section, the court shall consider any improper economic benefit, including unjust enrichment, received by the defendant as a result of the unlawful conduct.

SECTION 101. IC 14-21-1-13.5, AS AMENDED BY P.L.1-2007, SECTION 128, AND AS AMENDED BY P.L.2-2007, SECTION 170, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

(1) The Indiana Historical Society established under IC 23-6-3.

(2) A historical society (as defined in IC 36-10-13-3).

(3) The Historic Landmarks Foundation of Indiana.

(4) A professional archeologist or historian associated with a ~~*college or university.*~~ *postsecondary educational institution.*

(5) A township trustee.

(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund

established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of ~~*16 U.S.C. 470(w)*~~ *16 U.S.C. 470w-3* and ~~*16 U.S.C. 470(h)(h).*~~ *16 U.S.C. 470hh.*

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 102. IC 14-25-2-2.5, AS ADDED BY P.L.231-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this chapter, "water utility" means:

(1) a public utility (as defined in IC 8-1-2-1(a));

(2) a municipally owned utility (as defined in IC 8-1-2-1(h));

(3) a not-for-profit utility (as defined in IC 8-1-2-125(a));

(4) a cooperatively owned corporation;

(5) a conservancy district established under IC 14-33; or

(6) a regional water district established under IC 13-26;

that provides water service to the public.

(b) A person that seeks to contract with the commission for the provision of certain minimum quantities of stream flow or the sale of water on a unit pricing basis under section 2 of this chapter must submit a request to the commission and the department. The commission shall not make a determination as to whether to enter into a contract with the person making the request until:

(1) the procedures set forth in this section have been followed; and

(2) the commission has reviewed and considered each report submitted to the commission under subsection (i).

(c) Not later than thirty (30) days after receiving a request under subsection (b), the department shall provide, by certified mail, written notice of the request to the following:

(1) Each person with whom the commission holds a contract for:

(A) the provision of certain minimum quantities of stream flow; or

(B) the sale of water on a unit pricing basis;

as of the date of the request.

(2) The executive and legislative body of each:

(A) county;

(B) municipality, if any; and

(C) conservancy district established under IC 14-33, if any;

in which the water sought in the request would be used.

(3) The executive and legislative body of each:

(A) county;

(B) municipality, if any; and

(C) conservancy district established under IC 14-33, if any;

in which the affected reservoir is located.

(d) Not later than seven (7) days after receiving a notice from the department under subsection (c), each person described in subsection (c)(1) shall, by certified mail, provide written notice of the request to each:

(1) water utility; or

(2) other person;

that contracts with the person described in subsection (c)(1) for the purchase of water for resale. Each person to whom notice is mailed under this subsection is in turn responsible for providing written notice by certified mail to each water utility or other person that purchases water from that person for resale. A water utility or another person required to provide notice under this subsection shall mail the required notice not later than seven (7) days after it receives notice of the request from the water utility or other person from whom it purchases water for resale.

(e) At the same time that:

(1) a person described in subsection (c)(1); or

(2) a water utility or another person described in subsection (d);

mails any notice required under subsection (d), it shall also mail to the department, by certified mail, a list of the names and addresses of each water utility or other person to whom it has mailed the notice under subsection (d).

(f) In addition to the mailed notice required under subsection (c), the department shall publish notice of the request, in accordance with IC 5-3-1, in each county:

(1) in which a person described in section (c)(1) is located;

(2) in which the affected reservoir is located;

(3) in which the water sought in the request would be used; and

(4) in which a water utility or other person included in a list received by the department under subsection (e) is located.

Notwithstanding IC 5-3-1-6, in each county in which publication is required under this subsection, notice shall be published in at least one (1) general circulation newspaper in the county. The department may, in its discretion, publish public notices in a qualified publication (as defined in IC 5-3-1-0.7) or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the department.

(g) A notice required to be mailed or published under this section must:

(1) identify the person making the request;

(2) include a brief description of:

(A) the nature of the pending request; **and**

(B) the process by which the commission will determine whether to enter into a contract with the person making the request; ~~and~~

(3) set forth the date, time, and location of the public meeting required under subsection (h); and

(4) in the case of a notice that is required to be mailed under subsection (c)(1) or (d), a statement of the recipient's duty to in turn provide notice to any:

(A) water utility; or

(B) other person;

that purchases water for resale from the recipient, in accordance with subsection (d).

(h) The advisory council established by IC 14-9-6-1 shall hold a public meeting in each county in which notice is published under subsection (f). A public meeting required under this subsection must include the following:

(1) A presentation by the department describing:

(A) the nature of the pending request; and

(B) the process by which the commission will determine whether to enter into a contract with the person making the request.

(2) An opportunity for public comment on the pending request.

The advisory council may appoint a hearing officer to assist with a public meeting held under this subsection.

(i) Not later than thirty (30) days after a public meeting is held under subsection (h), the advisory council shall submit to the commission a report summarizing the public meeting.

SECTION 103. IC 16-18-2-37.5, AS AMENDED BY P.L.234-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.5. (a) "Board", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-2.1.

(b) "Board", for purposes of ~~IC 16-41-42,~~ **IC 16-41-42.2,** has the meaning set forth in ~~IC 16-41-42-1.~~ **IC 16-41-42.2-1.**

SECTION 104. IC 16-18-2-97, AS AMENDED BY P.L.41-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 97. "Division" means the following:

(1) For purposes of IC 16-21-8, the meaning set forth in IC 16-21-8-0.1.

(2) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.

(3) For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.

(4) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

(5) For purposes of IC 16-41-40, the ~~meaning set forth in IC 16-41-40-1.~~ **division of family resources established by IC 12-13-1-1.**

SECTION 105. IC 16-18-2-137, AS AMENDED BY P.L.100-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137. (a) "Food establishment", for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(b) The term does not include the following:

(1) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(2) A gathering of individuals at a venue of an organization that

is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

(A) the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

(B) the gathering is for a purpose of the organization.

Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.

(3) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(4) A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.

(5) Except for food prepared by a for-profit entity, a venue of the sale of food prepared ~~for~~ **an** the organization:

(A) that is organized for:

(i) religious purposes; or

(ii) educational purposes in a nonpublic educational setting;

(B) that is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) that offers the food for sale to the final consumer at an event held for the benefit of the organization;

unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(6) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:

(A) is organized for civic, fraternal, veterans, or charitable purposes;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) offers food for sale to the final consumer at an event held for the benefit of the organization;

if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.

SECTION 106. IC 16-18-2-143, AS AMENDED BY P.L.234-2007,

SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

(d) "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

(e) "Fund", for purposes of ~~IC 16-41-42,~~ **IC 16-41-42.2,** has the meaning set forth in ~~IC 16-41-42-2.~~ **IC 16-41-42.2-2.**

SECTION 107. IC 16-18-2-160.5, AS ADDED BY P.L.193-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 160.5. "Health care entity", for purposes of ~~IC 16-41-42,~~ **IC 16-41-42.1,** has the meaning set forth in ~~IC 16-41-42-1.~~ **IC 16-41-42.1-1.**

SECTION 108. IC 16-22-8-34, AS AMENDED BY P.L.121-2007, SECTION 2, AS AMENDED BY P.L.194-2007, SECTION 4, AND AS AMENDED BY P.L.215-2007, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish *isolation and* quarantine regulations ~~*impose restrictions on persons having infectious or contagious diseases and contacts of the persons, and regulate the disinfection of premises.*~~ *in accordance with IC 16-41-9.*

(D) To license, regulate, and establish minimum sanitary

standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the animals' breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

~~*(M)*~~ *(N)* To license and regulate the design, construction, and operation of public pools, spas, and beaches.

~~*(N)*~~ *(O)* To regulate the storage, containment, handling, use, and disposal of hazardous materials.

~~*(O)*~~ *(P)* To license and regulate tattoo ~~*parlors*~~ and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To ~~*furnish*~~ *provide school based* health ~~*and nursing*~~ services. ~~*to elementary and secondary schools within the county.*~~

(6) To furnish medical care to ~~*the indigent within*~~ *insured and uninsured residents of* the county. ~~*unless medical care is furnished to the indigent by the division of family resources.*~~

(7) To furnish dental services to the insured and uninsured residents of the county, including the services as provided in subsection (c) until the expiration of subsection (c).

~~*(7)*~~ *(8)* To ~~*determine the*~~ *establish* public health ~~*policies and*~~ programs. ~~*to be carried out and administered by the corporation.*~~

~~*(8)*~~ *(9)* To adopt an annual budget ordinance and levy taxes.

~~*(9)*~~ *(10)* To incur indebtedness in the name of the corporation.

~~*(10)*~~ *(11)* To organize ~~*the personnel and functions of*~~ the corporation into divisions. ~~*and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.*~~

~~*(11)*~~ *(12)* To acquire and dispose of property.

~~*(12)*~~ *(13)* To receive charitable contributions and gifts as provided in 26 U.S.C. 170.

~~*(13)*~~ *(14)* To make charitable contributions and gifts.

~~*(14)*~~ *(15)* To establish a charitable foundation as provided in 26 U.S.C. 501.

~~*(15)*~~ *(16)* To receive and distribute federal, state, local, or private grants.

~~*(16)*~~ *(17)* To receive and distribute grants from charitable foundations.

~~*(17)*~~ *(18)* To establish ~~*nonprofit*~~ corporations *and enter into partnerships and joint ventures* to carry out the purposes of the corporation. *This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.*

~~*(18)*~~ *(19)* To erect, *improve, remodel, or repair corporation* buildings. ~~*or structures or improvements to existing buildings or structures.*~~

~~*(19)*~~ *(20)* To determine ~~*matters of policy regarding internal organization and*~~ operating procedures.

~~*(20)*~~ *(21)* To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient, *the patient's insurance company,* or ~~*from the governmental unit where the patient resided at the time of the service.*~~ *a government program.*

(C) Require security for the payment of the charges.

~~*(21)*~~ *(22)* To adopt a schedule of and to collect reasonable charges for ~~*patients able to pay in full or in part.*~~ *medical and mental health services.*

~~*(22)*~~ *(23)* To enforce Indiana laws, administrative rules, *ordinances,* and the code of the health and hospital corporation of the county.

~~*(23)*~~ *(24)* To purchase supplies, materials, and equipment. ~~*for the corporation.*~~

~~*(24)*~~ *(25)* To employ personnel and establish personnel policies. ~~*to carry out the duties, functions, and powers of the corporation.*~~

~~*(25)*~~ *(26)* To employ attorneys admitted to practice law in Indiana.

~~*(26)*~~ *(27)* To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~*(27)*~~ *(28)* To dispose of surplus property in accordance with a policy by the board.

~~*(28)*~~ *(29)* To determine the duties of officers and division directors.

~~*(29)*~~ *(30)* To fix the compensation of the officers and division directors.

~~*(30)*~~ *(31)* To carry out the purposes and object of the corporation.

~~*(31)*~~ *(32)* To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~*(32)*~~ *(33)* To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. *IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.*

~~*(33)*~~ **(34)** *To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.*

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

(c) After a dentist licensed under IC 25-14 who is employed by a local health department or the health and hospital corporation examines a child enrolled in any grade up to and including grade 12 and prescribes a treatment plan in writing for the child, a licensed dental hygienist employed by the local health department or the health and hospital corporation may, without supervision by the dentist, provide the child with the following treatment in accordance with the treatment plan:

(1) Prophylaxis.

(2) Fluoride application.

(3) Sealants.

However, the treatment must be completed not more than ninety (90) days after the dentist prescribes the treatment plan. This subsection expires June 30, 2009.

SECTION 109. IC 16-28-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to obtaining a patient's informed consent under section 2(b) of this chapter and subject to obtaining an order from the individual's physician to administer the immunizations, a health facility shall immunize all patients of the health facility against the following:

(1) Influenza virus.

(2) Pneumococcal disease.

(b) A health facility shall conduct the immunizations required under subsection (a) in accordance with the recommendations established by the Advisory Committee on Immunization ~~Process~~ **Practices** of the United States Centers for Disease Control and Prevention that are in effect at the time the health facility conducts the immunizations.

SECTION 110. IC 16-37-1-9, AS AMENDED BY P.L.215-2007, SECTION 3, AND AS AMENDED BY P.L.225-2007, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A local health department may make a charge under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration. *IC 5-14-3-8(d) does not apply to the health department making a charge for a certificate of birth, death, or stillbirth registration under IC 16-20-1-27.*

(b) If the local department of health makes a charge for a certificate of death under subsection (a), ~~a one dollar ($1)~~ *the* coroners continuing education fee *described in subsection (d)* must be added to the rate established under IC 16-20-1-27. The local department of health shall deposit any coroners continuing education fees with the county auditor within thirty (30) days after collection. The county auditor shall transfer semiannually any coroners continuing education fees to the treasurer of state.

(c) Notwithstanding IC 16-20-1-27, a charge may not be made for furnishing a certificate of birth, death, or stillbirth registration to a person or to a member of the family of a person who needs the certificate for one (1) of the following purposes:

(1) To establish the person's age or the dependency of a member of the person's family in connection with:

(A) the person's service in the armed forces of the United States; or

(B) a death pension or disability pension of a person who is serving or has served in the armed forces of the United States.

(2) To establish or to verify the age of a child in school who desires to secure a work permit.

(d) The coroners continuing education fee is:

(1) one dollar and seventy-five cents ($1.75) after June 30, 2007, and before July 1, 2013;

(2) two dollars ($2) after June 30, 2013, and before July 1, 2018;

(3) two dollars and twenty-five cents ($2.25) after June 30, 2018, and before July 1, 2023;

(4) two dollars and fifty cents ($2.50) after June 30, 2023, and before July 1, 2028;

(5) two dollars and seventy-five cents ($2.75) after June 30, 2028, and before July 1, 2033;

(6) three dollars ($3) after June 30, 2033, and before July 1, 2038;

(7) three dollars and twenty-five cents ($3.25) after June 30, 2038, and before July 1, 2043; and

(8) three dollars and fifty cents ($3.50) after June 30, 2043.

SECTION 111. IC 16-40-5-6, AS ADDED BY P.L.101-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsections (d)

and (e): ~~the following are confidential and privileged from use as evidence in an administrative or a judicial proceeding.~~

(1) oral or written information or reports given to the agency; **and**

(2) proceedings, records, deliberations, and findings of the agency;

that are generated, undertaken, or performed as a result of a report described in section 5 of this chapter or under the agreement described in section 4(a) of this chapter **are confidential and privileged from use as evidence in an administrative or judicial proceeding.**

(b) Neither the personnel of the agency nor any participant or witness in an agency proceeding or deliberation may disclose to a person outside of the agency the contents of:

(1) communications to the agency;

(2) agency records; or

(3) agency findings;

that are generated, undertaken, or performed as a result of a report described in section 5 of this chapter or under the agreement described in section 4(a) of this chapter.

(c) Information that is otherwise discoverable or admissible from original sources is not immune from discovery or use in any proceeding merely because it was presented during proceedings or deliberations of the agency. Neither the personnel of the agency nor any participant or witness in any agency proceeding or deliberation may be prevented from testifying:

(1) as to matters within the individual's own knowledge; and

(2) in accordance with the other provisions of this chapter.

However, a witness cannot be questioned about testimony on other matters before the agency or about opinions formed by the witness as a result of the agency's proceedings or deliberations.

(d) The agency may disclose information concerning patient safety or quality of health care matters addressed in the agreement described in section 4(a) of this chapter, including information reported to the agency by a health care facility, a health care professional, or an individual, if the information does not disclose any of the following:

(1) The identity of the health care facility, health care provider, or patient.

(2) The identity of a person that provided information to the agency.

(3) Information that could reasonably be expected to result in the identification of a health care facility, health care provider, patient, or person that has provided information to the agency.

(e) Information or material that is confidential and privileged under this section may be used as evidence in a criminal proceeding only if the court first makes an in camera determination that the information:

(1) is relevant to the criminal proceeding;

(2) is material to the proceeding; and

(3) is not reasonably available from another source.

SECTION 112. IC 16-41-42.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 42.1. Registration of Out-of-State Mobile Health Care Entities

Sec. 1. As used in this chapter, "health care entity" means an entity that:

(1) is registered or licensed as a health care entity under the laws of another state, a foreign country, or a province in a foreign country; and

(2) provides health care services, including the performance of health care tests, in a mobile facility or temporary location for a short period of time.

Sec. 2. The state department shall maintain a registry of health care entities that apply for and meet the registration requirements of this chapter.

Sec. 3. The registry maintained under section 2 of this chapter must include:

(1) the information required under section 5(6) of this chapter for each registered health care entity; and

(2) the date that the health care entity registered with the state department under this chapter.

Sec. 4. The state department shall issue a certificate of registration to a health care entity that applies for registration and meets the requirements of this chapter.

Sec. 5. A health care entity applying for registration under this chapter must disclose the following:

(1) The types of health care services that the health care entity will provide in Indiana.

(2) The names of any employees who are currently in good standing licensed, certified, or registered in a health care profession in:

(A) Indiana; or

(B) any other state;

and a copy of each employee's license, certification, or registration.

(3) Any health care services that are to be provided under a contract between the health care entity and a person that is licensed, certified, or registered in Indiana to provide health care services.

(4) The types of:

(A) health care services that the health care entity will perform;

(B) health care tests that the health care entity will perform; and

(C) equipment that the health care entity will use.

(5) The manner in which test results and recommendations for health care based on the test results will be disclosed to patients.

(6) The health care entity's name, address, and telephone number and the name of any company that is affiliated with the health care entity.

Sec. 6. A registered health care entity that is issued a certificate of registration under this chapter shall display the certificate of registration in a conspicuous place in sight of a consumer of the health care entity.

Sec. 7. A certificate of registration issued under this chapter expires one (1) calendar year after its issuance.

Sec. 8. A health care entity may not provide services in Indiana until the health care entity is registered with the state department under this chapter.

Sec. 9. The registration of a health care entity under this chapter does not exempt:

(1) a health care professional from the licensure, certification, and registration requirements of IC 25; or

(2) a health care service from the regulation requirements of IC 16 or IC 25.

Sec. 10. The state department shall adopt rules under IC 4-22-2

necessary to implement this chapter, including rules specifying registration renewal procedures.

SECTION 113. IC 16-41-42.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 42.2. Spinal Cord and Brain Injury

Sec. 1. As used in this chapter, "board" refers to the spinal cord and brain injury research board established by section 5 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the spinal cord and brain injury fund established by section 3 of this chapter.

Sec. 3. (a) The spinal cord and brain injury fund is established to fund research on spinal cord and brain injuries.

(b) The fund shall be administered by the state department.

(c) The fund consists of:

(1) appropriations;

(2) gifts and bequests;

(3) fees deposited in the fund under IC 9-29-5-2; and

(4) grants received from the federal government or private sources.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The money in the fund is continually appropriated to the state department to fund spinal cord and brain injury research programs.

Sec. 4. The fund is to be used for the following purposes:

(1) Establishing and maintaining a state medical surveillance registry for traumatic spinal cord and brain injuries.

(2) Fulfilling the duties of the board established by section 5 of this chapter.

(3) Funding research related to the treatment and cure of spinal cord and brain injuries, including acute management, medical complications, rehabilitative techniques, and neuronal recovery. Research must be conducted in

compliance with all state and federal laws.

Sec. 5. (a) The spinal cord and brain injury research board is established for the purpose of administering the fund. The board is composed of nine (9) members.

(b) The following four (4) members of the board shall be appointed by the governor:

(1) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury.

(2) One (1) member who is a physician licensed under IC 25-22.5 who has specialty training in neuroscience and surgery.

(3) One (1) member who is a physiatrist holding a board certification from the American Board of Physical Medicine and Rehabilitation.

(4) One (1) member representing the technical life sciences industry.

(c) Five (5) members of the board shall be appointed as follows:

(1) One (1) member representing Indiana University to be appointed by Indiana University.

(2) One (1) member representing Purdue University to be appointed by Purdue University.

(3) One (1) member representing the National Spinal Cord Injury Association to be appointed by the National Spinal Cord Injury Association.

(4) One (1) member representing the largest freestanding rehabilitation hospital for brain and spinal cord injuries in Indiana to be appointed by the Rehabilitation Hospital of Indiana located in Indianapolis.

(5) One (1) member representing the American Brain Injury Association to be appointed by the Brain Injury Association of Indiana.

(d) The term of a member is four (4) years. A member serves until a successor is appointed and qualified. If a vacancy occurs on the board before the end of a member's term, the appointing authority appointing the vacating member shall appoint an individual to serve the remainder of the vacating member's term.

(e) A majority of the members appointed to the board constitutes a quorum. The affirmative votes of a majority of the members are required for the board to take action on any measure.

(f) Each member of the board is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The board shall annually elect a chairperson who shall be the presiding officer of the board. The board may establish other officers and procedures as the board determines necessary.

(h) The board shall meet at least two (2) times each year. The chairperson may call additional meetings.

(i) The state department shall provide staff for the board. The state department shall maintain a registry of the members of the board. An appointing authority shall provide written confirmation of an appointment to the board to the state department in the form and manner specified by the state department.

(j) The board shall do the following:

(1) Consider policy matters relating to spinal cord and brain injury research projects and programs under this chapter.

(2) Consider research applications and make grants for approved research projects under this chapter.

(3) Formulate policies and procedures concerning the operation of the board.

(4) Review and authorize spinal cord and brain injury research projects and programs to be financed under this chapter. For purposes of this subdivision, the board may establish an independent scientific advisory panel composed of scientists and clinicians who are not members of the board to review proposals submitted to the board and make recommendations to the board. Collaborations are encouraged with other Indiana-based researchers as well as researchers located outside Indiana, including researchers in other countries.

(5) Review and approve progress and final research reports on projects authorized under this chapter.

(6) Review and make recommendations concerning the expenditure of money from the fund.

(7) Take other action necessary for the purpose stated in

subsection (a).

(8) Provide to the governor, the general assembly, and the legislative council an annual report not later than January 30 of each year showing the status of funds appropriated under this chapter. The report to the general assembly and the legislative council must be in an electronic format under IC 5-14-6.

(k) A member of the board is exempt from civil liability arising or thought to arise from an action taken in good faith as a member of the board.

Sec. 6. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 114. IC 20-19-2-20, AS AMENDED BY P.L.1-2007, SECTION 141, AND AS AMENDED BY P.L.2-2007, SECTION 199, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. The state board shall design a high school diploma to be granted to individuals who successfully complete a high school fast track to college program under ~~*IC 20-12-13-6,*~~ ~~*IC 20-12-75-14,*~~ *IC 21-43-6, IC 21-43-7,* or ~~*IC 23-13-18-29.*~~ *IC 21-43-8.*

SECTION 115. IC 20-20-8-8, AS AMENDED BY P.L.84-2007, SECTION 1, AND AS AMENDED BY P.L.234-2007, SECTION 91, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The report must include the following information:

(1) Student enrollment.

(2) Graduation rate (as defined in IC 20-26-13-6).

(3) Attendance rate.

(4) The following test scores, including the number and percentage of students meeting academic standards:

(A) ISTEP program test scores.

(B) Scores for assessments under IC 20-32-5-21, if appropriate.

(C) For a freeway school, scores on a locally adopted assessment program, if appropriate.

(5) Average class size.

(6) The number and percentage of students in the following groups or programs:

(A) Alternative education, if offered.

(B) ~~*Vocational*~~ *Career and technical* education.

(C) Special education.

~~*(D) Gifted or talented, education, if offered.*~~

(D) High ability.

(E) Remediation.

(F) Limited English language proficiency.

(G) Students receiving free or reduced price lunch under the national school lunch program.

(H) School flex program, if offered.

(7) Advanced placement, including the following:

(A) For advanced placement tests, the percentage of students:

(i) scoring three (3), four (4), and five (5); and

(ii) taking the test.

(B) For the Scholastic Aptitude Test:

(i) test scores for all students taking the test;

(ii) test scores for students completing the academic honors diploma program; and

(iii) the percentage of students taking the test.

(8) Course completion, including the number and percentage of students completing the following programs:

(A) Academic honors diploma.

(B) Core 40 curriculum.

(C) ~~*Vocational*~~ *Career and technical* programs.

(9) The percentage of grade 8 students enrolled in algebra I.

(10) The percentage of graduates who pursue higher education.

(11) School safety, including:

(A) the number of students receiving suspension or expulsion for the possession of alcohol, drugs, or weapons; and

(B) the number of incidents reported under IC 20-33-9.

(12) Financial information and various school cost factors, including the following:

(A) Expenditures per pupil.

(B) Average teacher salary.

(C) Remediation funding.

(13) Technology accessibility and use of technology in instruction.

(14) Interdistrict and intradistrict student mobility rates, if that

information is available.

(15) The number and percentage of each of the following within the school corporation:

(A) Teachers who are certificated employees (as defined in IC 20-29-2-4).

(B) Teachers who teach the subject area for which the teacher is certified and holds a license.

(C) Teachers with national board certification.

(16) The percentage of grade 3 students reading at grade 3 level.

(17) The number of students expelled, including the number participating in other recognized education programs during their expulsion.

(18) Chronic absenteeism, which includes the number of students who have been absent more than ten (10) days from school within a school year without being excused.

(19) The number of students who have dropped out of school, including the reasons for dropping out.

(20) The number of student work permits revoked.

(21) The number of student driver's licenses revoked.

(22) The number of students who have not advanced to grade 10 due to a lack of completed credits.

(23) The number of students suspended for any reason.

(24) The number of students receiving an international baccalaureate diploma.

(25) Other indicators of performance as recommended by the education roundtable under IC 20-19-4.

SECTION 116. IC 20-20-13-6, AS AMENDED BY P.L.2-2007, SECTION 205, AND AS AMENDED BY P.L.234-2007, SECTION 92, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The educational technology program and fund is established to provide and extend educational technologies to elementary and secondary schools for:

(1) the 4R's technology grant program to assist school corporations (on behalf of public schools) in purchasing technology equipment:

(A) for kindergarten and grade 1 students, to learn reading, writing, and arithmetic using technology;

(B) for students in all grades, to understand that technology is

a tool for learning; and

(C) for students in kindergarten through grade 3 who have been identified as needing remediation, to offer daily remediation opportunities using technology to prevent those students from failing to make appropriate progress at the particular grade level;

(2) providing educational technologies, including computers in the homes of students;

(3) conducting educational technology training for teachers; and

(4) other innovative educational technology programs.

(b) The department may also use money in the fund under contracts entered into with the office of technology established by IC 4-13.1-2-1 to study the feasibility of establishing an information telecommunications gateway that provides access to information on employment opportunities, career development, and instructional services from data bases operated by the state among the following:

(1) Elementary and secondary schools.

(2) *Postsecondary educational* institutions. ~~*of higher learning.*~~

(3) ~~*Vocational*~~ *Career and technical* educational *centers and* institutions *that are not postsecondary educational institutions.*

(4) Libraries.

(5) Any other agencies offering education and training programs.

(c) The fund consists of:

(1) state appropriations;

(2) private donations to the fund;

(3) money directed to the fund from the corporation for educational technology under IC 20-20-15; or

(4) any combination of the amounts described in subdivisions (1) through (3).

(d) The program and fund shall be administered by the department.

(e) Unexpended money appropriated to or otherwise available in the fund for the department's use in implementing the program under this chapter at the end of a state fiscal year does not revert to the state general fund but remains available to the department for use under this chapter.

(f) Subject to section 7 of this chapter, a school corporation may use money from the school corporation's capital projects fund as permitted under IC 20-40-8 for educational technology equipment.

SECTION 117. IC 20-28-2-2, AS AMENDED BY P.L.2-2007, SECTION 213, AND AS AMENDED BY P.L.234-2007, SECTION 107, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The advisory board of the division of professional standards is established to advise the superintendent, the board, the department, and the division on matters concerning teacher education, licensing, and professional development. The advisory board consists of nineteen (19) voting members.

(b) Except as otherwise provided, each voting member of the advisory board described in this subsection must be actively employed by a school corporation. Eighteen (18) members shall be appointed by the governor as follows:

(1) One (1) member must hold a license and be actively employed in a public school as an Indiana school superintendent.

(2) Two (2) members must:

(A) hold licenses as public school principals;

(B) be actively employed as public school principals; and

(C) be employed at schools having dissimilar grade level configurations.

(3) One (1) member must:

(A) hold a license as a special education director; and

(B) be actively employed as a special education director in:

(i) a school corporation; or

(ii) a public school special education cooperative.

(4) One (1) member must be a member of the governing body of a school corporation but is not required to be actively employed by a school corporation or to hold an Indiana teacher's license.

(5) Three (3) members must meet the following conditions:

(A) Represent Indiana teacher education units within Indiana public and private *postsecondary educational* institutions. ~~*of higher education.*~~

(B) Hold a teacher's license but not necessarily an Indiana teacher's license.

(C) Be actively employed by the respective teacher education units.

The members described in this subdivision are not required to be employed by a school corporation.

(6) Nine (9) members must be licensed and actively employed as

Indiana public school teachers in the following categories:

(A) At least one (1) member must hold an Indiana standard early childhood education license.

(B) At least one (1) member must hold an Indiana teacher's license in elementary education.

(C) At least one (1) member must hold an Indiana teacher's license for middle/junior high school education.

(D) At least one (1) member must hold an Indiana teacher's license in high school education.

(7) One (1) member must be a member of the business community in Indiana but is not required to be actively employed by a school corporation or to hold an Indiana teacher's license.

(c) Each member described in subsection (b)(6) must be licensed and actively employed as a practicing teacher in at least one (1) of the following areas to be appointed:

(1) At least one (1) member must be licensed in special education.

(2) At least one (1) member must be licensed in ~~*vocational*~~ *career and technical* education.

(3) At least one (1) member must be employed and licensed in student services, which may include school librarians or psychometric evaluators.

(4) At least one (1) member must be licensed in social science education.

(5) At least one (1) member must be licensed in fine arts education.

(6) At least one (1) member must be licensed in English or language arts education.

(7) At least one (1) member must be licensed in mathematics education.

(8) At least one (1) member must be licensed in science education.

(d) At least one (1) member described in subsection (b) must be a parent of a student enrolled in a public preschool or public school within a school corporation in either kindergarten or any of grades 1 through 12.

(e) The state superintendent shall serve as an ex officio voting member of the advisory board. The state superintendent may make recommendations to the governor as to the appointment of members on

the advisory board.

SECTION 118. IC 20-33-1-1, AS AMENDED BY P.L.2-2007, SECTION 225, AND AS AMENDED BY P.L.234-2007, SECTION 117, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The following is the public policy of the state:

(1) To provide:

(A) equal;

(B) nonsegregated; *and*

(C) nondiscriminatory;

educational opportunities and facilities for all, regardless of race, creed, national origin, color, or sex.

(2) To provide and furnish public schools ~~*and common schools equally*~~ open *equally* to all, and prohibited and denied to none because of race, creed, color, or national origin.

(3) To reaffirm the principles of:

(A) the Bill of Rights;

(B) civil rights; and

(C) the Constitution of the State of Indiana.

(4) To provide ~~*for the state and the citizens of Indiana*~~ a uniform democratic system of public ~~*and common*~~ school education *to the state and the citizens of Indiana.*

(5) To:

(A) abolish;

(B) eliminate; and

(C) prohibit;

segregated and separate schools or school districts on the basis of race, creed, or color.

(6) To eliminate and prohibit:

(A) segregation;

(B) separation; and

(C) discrimination;

on the basis of race, ~~*color, or*~~ creed, *or color* in ~~*the public kindergartens, common schools,*~~ public schools. ~~*career and technical education centers or schools, colleges, and universities of Indiana.*~~

SECTION 119. IC 20-34-5-11, AS ADDED BY P.L.166-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 11. As used in this chapter, "volunteer health aide" means a school employee who:

(1) is not licensed or authorized to provide health care services under IC 25;

(2) volunteers to act in the capacity of a volunteer health aide; and

(3) has successfully completed the training described in ~~section 14~~ **section 15** of this chapter.

SECTION 120. IC 20-35-7-3, AS AMENDED BY P.L.2-2007, SECTION 233, AND AS AMENDED BY P.L.234-2007, SECTION 122, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this chapter, "transition services" means a coordinated set of activities for a student with a disability that:

(1) is designed within an outcome oriented process; and

(2) promotes movement from the public agency to postsecondary school activities, including the following:

(A) Postsecondary education.

(B) ~~*Vocational training.*~~ *Career and technical education that is not postsecondary education.*

(C) Integrated employment (including supported employment).

(D) Continuing and adult education.

(E) Adult services.

(F) Independent living.

(G) Community participation.

(b) The coordinated set of activities described in subsection (a) must:

(1) be based on the individual student's needs, taking into account the student's preferences and interests; and

(2) include the following:

(A) Instruction.

(B) Related services.

(C) Community experiences.

(D) The development of employment and other postsecondary ~~*school*~~ *educational institution* adult living objectives.

(E) Where appropriate, acquisition of daily living skills and a functional vocational evaluation.

SECTION 121. IC 20-42-3-10, AS AMENDED BY P.L.2-2007, SECTION 239, AND AS AMENDED BY P.L.234-2007, SECTION

132, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The trustee, with the advice and consent of the township board, shall use the account for the following educational purposes:

(1) Each year the trustee shall pay to the parent or legal guardian of any child whose residence is within the township, the initial cost for the rental of textbooks used in any elementary or secondary school that has been accredited by the state. The reimbursement for the rental of textbooks shall be for the initial yearly rental charge only. Textbooks subsequently lost or destroyed may not be paid for from this account.

(2) Students who are residents of the township for the last two (2) years of their secondary education and who still reside within the township are entitled to receive financial assistance in an amount not to exceed an amount determined by the trustee and the township board during an annual review of ~~*higher*~~ *postsecondary* education fees and tuition costs of ~~*post-high school*~~ education at any accredited ~~*college, university, junior college, or career and technical education center or school or trade school.*~~ *postsecondary educational institution.* Amounts to be paid to each eligible student shall be set annually after this review. The amount paid each year must be:

(A) equitable for every eligible student without regard to race, religion, creed, sex, disability, or national origin; and

(B) based on the number of students and the amount of funds available each year.

(3) A person who has been a permanent resident of the township continuously for at least two (2) years and who needs educational assistance for job training or retraining may apply to the trustee of the township for financial assistance. The trustee and the township board shall review each application and make assistance available according to the need of each applicant and the availability of funds.

(4) If all the available funds are not used in any one (1) year, the unused funds shall be retained in the account by the trustee for use in succeeding years.

SECTION 122. IC 20-43-2-3, AS AMENDED BY P.L.234-2007, SECTION 134, AND AS AMENDED BY P.L.234-2007, SECTION

236, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~*(a) Except as provided in subsection (b),*~~ If the total amount to be distributed:

(1) as basic tuition support;

(2) for academic honors diploma awards;

(3) for primetime distributions;

(4) for special education grants; and

(5) for ~~*vocational*~~ *career and technical* education grants;

for a particular year exceeds the maximum state distribution for a calendar year, the amount to be distributed for state tuition support under this article to each school corporation during each of the last six (6) months of the year shall be proportionately reduced so that the total reductions equal the amount of the excess.

~~*(b) The department of education shall distribute the full amount of tuition support to school corporations in the second six (6) months of 2006 in accordance with this article without a reduction under this section.*~~

SECTION 123. IC 20-43-3-4, AS AMENDED BY P.L.234-2007, SECTION 135, AND AS AMENDED BY P.L.234-2007, SECTION 238, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A school corporation's previous year revenue equals the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the sum of the following:

(A) The school corporation's basic tuition support for the year that precedes the current year.

(B) The school corporation's maximum permissible tuition support levy for the calendar year that precedes the current year, made in determining the school corporation's adjusted tuition support levy for the calendar year.

(C) The school corporation's excise tax revenue for the year that precedes the current year by two (2) years.

STEP TWO: Subtract from the STEP ONE result an amount equal to the ~~*sum of the following:*~~

~~*(A) The*~~ reduction in the school corporation's state tuition support under any combination of subsection (b), subsection (c), IC 20-10.1-2-1 (before its repeal), or IC 20-30-2-4.

~~*(B) In 2006, the amount of the school corporation's maximum*~~

~~*permissible tuition support levy attributable to the levy transferred from the school corporation's general fund to the school corporation's referendum tax levy fund under IC 20-46-1-6.*~~

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

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

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

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

(c) A school corporation's previous year revenue must be reduced if an existing elementary or secondary school located in the school corporation converts to a charter school under IC 20-5.5-11 before July 1, 2005, or IC 20-24-11 after June 30, 2005. The amount of the reduction equals the product of:

(1) the sum of the amounts distributed to the conversion charter school under IC 20-5.5-7-3.5(c) and IC 20-5.5-7-3.5(d) before July 1, 2005, and IC 20-24-7-3(c) and IC 20-24-7-3(d) after June 30, 2005; multiplied by

(2) two (2).

SECTION 124. IC 20-43-4-1, AS AMENDED BY P.L.159-2007, SECTION 4, AND AS AMENDED BY P.L.234-2007, SECTION 136, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) An individual is an eligible pupil if the individual is a pupil enrolled in a school corporation and:

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the

responsibility to pay transfer tuition under IC 20-26-11 because the pupil is transferred for education to another school corporation;

(3) the pupil is enrolled in a school corporation as a transfer student under IC 20-26-11-6 or entitled to be counted for ADM purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-26-11; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility *or* child care facility ~~*or foster family home*~~ where the pupil was placed:

(i) by or with the consent of the department of child services;

(ii) by a court order;

(iii) by a child placing agency licensed by the ~~*division of family resources, or*~~ *department of child services;*

(iv) by a parent or guardian under IC 20-26-11-8; *or*

(v) by or with the consent of the department under IC 20-35-6-2.

(b) For purposes of a ~~*vocational*~~ *career and technical* education grant, an eligible pupil includes a student enrolled in a charter school.

SECTION 125. IC 20-43-5-3, AS AMENDED BY P.L.234-2007, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **A** school corporation's complexity index is determined under the following formula:

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

(1) Determine the percentage of the school corporation's students who were eligible for free or reduced price lunches in the school year ending in the later of 2007 or the first year of operation of the school corporation.

(2) Determine the quotient of: ~~the following:~~

(A) in 2008:

(i) two thousand two hundred fifty dollars ($2,250); divided by

(ii) four thousand seven hundred ninety dollars ($4,790); and

(B) in 2009:

(i) two thousand four hundred dollars ($2,400); divided by

(ii) four thousand eight hundred twenty-five dollars ($4,825).

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP TWO: Determine the result of one (1) plus the STEP ONE result.

STEP THREE: This STEP applies if the STEP TWO result is equal to or greater than at least one and twenty-five hundredths (1.25). Determine the result of the following:

(1) Subtract one and twenty-five hundredths (1.25) from the STEP TWO result.

(2) Determine the result of:

(A) the STEP TWO result; plus

(B) the subdivision (1) result.

The data to be used in making the calculations under STEP ONE ~~of this subsection~~ must be the data collected in the annual pupil enrollment count by the department.

SECTION 126. IC 20-43-5-7, AS AMENDED BY P.L.234-2007, SECTION 246, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A school corporation's transition to foundation revenue for a calendar year is equal to the sum of the following:

(1) The product of:

(A) the school corporation's transition to foundation amount for the calendar year; multiplied by

(B) the school corporation's:

(i) current ADM, if the current ADM for the school corporation is less than one hundred (100); and

(ii) current adjusted ADM, if item (i) does not apply.

(2) Either:

(A) the result of:

(i) one hundred dollars ($100) for calendar year 2008 and one hundred fifty dollars ($150) for calendar year 2009; multiplied by

(ii) the school corporation's adjusted ADM;

if the school corporation's current ADM is less than three thousand and six hundred (3,600) and the amount determined under subdivision (1) is less than the school corporation's previous year revenue; ~~or~~

(B) the result of:

(i) one hundred dollars ($100) for calendar year 2008 and one hundred fifty dollars ($150) for calendar year 2009; multiplied by

(ii) the school corporation's adjusted ADM;

if clause (A) does not apply and the result of the amount under subdivision (1) is less than the result of **the** school corporation's previous year revenue multiplied by nine hundred sixty-five thousandths (0.965);

(C) the school corporation's current adjusted ADM multiplied by the lesser of:

(i) one hundred dollars ($100); or

(ii) the school corporation's STEP TWO amount under section 6 of this chapter;

if clauses (A) and (B) do not apply, the amount under subdivision (1) is less than the school corporation's previous year revenue, and the school corporation's result under STEP ONE of section 6 of this chapter is greater than zero (0); **or**

(D) zero (0), if clauses (A), (B), and (C) do not apply. ~~and~~

(3) This subdivision does not apply to a charter school. Either:

(A) three hundred dollars ($300) multiplied by the school corporation's current ADM, if the school corporation's current ADM is less than one thousand seven hundred (1,700) and the school corporation's complexity index is greater than one and two-tenths (1.2);

(B) one hundred dollars ($100) multiplied by the school corporation's current ADM, if the school corporation's current ADM is less than one thousand seven hundred (1,700) and the school corporation's complexity index is greater than one and one-tenth (1.1) and not greater than one and two-tenths (1.2);

or

(C) zero (0), if clauses (A) and (B) do not apply.

SECTION 127. IC 20-45-3-5, AS AMENDED BY P.L.234-2007, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A school corporation's tax rate floor is the tax rate determined under this section.

(b) The school corporation's ~~The school corporation's~~ tax rate floor for the calendar year is the result under STEP SIX of the following formula:

STEP ONE: Divide the school corporation's total assessed value by the school corporation's current ADM.

STEP TWO: Divide the STEP ONE result by ten thousand (10,000).

STEP THREE: Determine the greater of the following:

(A) The STEP TWO result.

(B) Forty-six dollars ($46).

STEP FOUR: Determine the result under clause (B):

(A) Subtract the school corporation's foundation amount revenue for the calendar year from the school corporation's total regular program tuition support for the calendar year.

(B) Divide the clause (A) result by the school corporation's current ADM.

STEP FIVE: Divide the STEP FOUR result by the STEP THREE result.

STEP SIX: Divide the STEP FIVE result by one hundred (100).

SECTION 128. IC 21-7-13-9, AS ADDED BY P.L.2-2007, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Board of trustees":

(1) in a law applicable to Ball State University, refers to the Ball State University board of trustees;

(2) in a law applicable to Indiana University, refers to the Indiana University board of trustees;

(3) in a law applicable to Indiana State University, refers to the Indiana State University board of trustees;

(4) in a law applicable to Ivy Tech Community College, refers to the Ivy Tech Community College of Indiana board of trustees; ~~(or if the name of the state educational institution is changed under IC 21-22-2-2, the trustees of the state educational institution with~~

~~the name designated under IC 21-22-2-2);~~

(5) in a law applicable to Purdue University, refers to the Purdue University board of trustees;

(6) in a law applicable to the University of Southern Indiana, refers to the University of Southern Indiana board of trustees; and

(7) in a law applicable to Vincennes University, refers to the Vincennes University board of trustees.

SECTION 129. IC 21-7-13-29, AS ADDED BY P.L.2-2007, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. ~~"Regional institute"~~ **"Region"** has the meaning set forth in IC 21-22-1-5.

SECTION 130. IC 21-11-9-4, AS AMENDED BY P.L.168-2007, SECTION 5, AND AS AMENDED BY P.L.229-2007, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The commission shall adopt rules under IC 4-22-2 to implement IC 21-12-6, including:

(1) rules regarding the establishment of appeals procedures for individuals who become disqualified from the program under IC 21-12-6-9; ~~*and*~~

(2) notwithstanding IC 21-12-6-5, rules that may include students who are in grades other than grade *6, 7, or* 8 as eligible students; *and*

(3) rules that allow a student described in IC 21-12-6-5(b) to become an eligible student while the student is in high school, if the student agrees to comply with the requirements set forth in IC 21-12-6-5(a)(4)(B) through IC 21-12-6-5(a)(4)(D) for not less than six (6) months after graduating from high school.

SECTION 131. IC 21-12-6-5, AS AMENDED BY P.L.229-2007 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) To qualify to participate in the program, a student must meet the following requirements:

(1) Be a resident of Indiana.

(2) Be:

(A) enrolled in grade 7 or 8, for the 2007-2008 school year, and grade 6, 7, or 8, for the 2008-2009 school year and for subsequent school years, at a:

(i) public school; or

(ii) nonpublic school that is accredited either by the state

board of education or by a national or regional accrediting agency whose accreditation is accepted as a school improvement plan under IC 20-31-4-2; or

(B) otherwise qualified under the rules of the commission that are adopted under IC 21-11-9-4 to include students who are in grades other than grade 8 as eligible students.

(3) Be eligible for free or reduced priced lunches under the national school lunch program.

(4) Agree, in writing, together with the student's custodial parents or guardian, that the student will:

(A) graduate from a secondary school located in Indiana that meets the admission criteria of an eligible institution;

(B) not illegally use controlled substances (as defined in IC 35-48-1-9);

(C) not commit a crime or an infraction described in IC 9-30-5;

(D) not commit any other crime or delinquent act (as described in IC 31-37-1-2 or IC 31-37-2-2 through IC 31-37-2-5 (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal));

(E) timely apply, when the eligible student is a senior in high school:

(i) for admission to an eligible institution; and

(ii) for any federal and state student financial assistance available to the eligible student to attend an eligible institution; and

(F) achieve a cumulative grade point average upon graduation of at least 2.0 on a 4.0 grading scale (or its equivalent if another grading scale is used) for courses taken during grades 9, 10, 11, and 12.

(b) ~~The term includes~~ A student ~~who.~~ **is qualified to participate in the program if the student:**

(1) before or during grade 7 or grade 8, is placed by or with the consent of the department of child services, by a court order, or by a child placing agency in:

(A) a foster family home;

(B) the home of a relative or other unlicensed caretaker;

(C) a child caring institution; or

(D) a group home;

(2) agrees in writing, together with the student's caseworker (as defined in IC 31-9-2-11), to the conditions set forth in subsection (a)(4); and

(3) except as provided in subdivision (2), otherwise meets the requirements of subsection (a).

SECTION 132. IC 21-14-2-7, AS AMENDED BY P.L.234-2007, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The rates must be set according to the procedure set forth in section 8 of this chapter: ~~and:~~

(1) on or before June 30 of the odd-numbered year; or

(2) sixty (60) days after the state budget bill is enacted into law; whichever is later.

SECTION 133. IC 21-17-4-4, AS ADDED BY P.L.2-2007, SECTION 258, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A private technical, vocational, correspondence, and trade school that is registered under this chapter is **not** entitled to use its registration under this chapter for publicity purposes in any manner.

SECTION 134. IC 21-17-4-5, AS ADDED BY P.L.2-2007, SECTION 258, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The department of education shall:

(1) maintain a file of each private technical, vocational, correspondence, and trade school registered with the department of education; and

(2) preserve in the file any grievances, complaints, or other comments about the private technical, vocational, correspondence, and trade school that ~~has~~ **have** been received.

SECTION 135. IC 21-20-4-5, AS ADDED BY P.L.2-2007, SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The secretary of the board of trustees shall:

(1) keep a true record of the proceedings of the board of trustees;

(2) certify copies of the ~~board~~ **record** of ~~trustee's~~ **the** proceedings **of the board of trustees;** and

(3) maintain:

(A) an account of the students in Indiana University by the

students' classes, including the students' respective ages and places of residence; and

(B) a list of all graduates.

SECTION 136. IC 21-22-2-2, AS AMENDED BY P.L.169-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~(a)~~ The two (2) year state educational institution established by section 1 of this chapter shall be called "Ivy Tech Community College of Indiana".

SECTION 137. IC 21-22-6-8, AS AMENDED BY P.L.169-2007, SECTION 22, AND AS AMENDED BY P.L.234-2007, SECTION 85, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A regional board shall do the following:

(1) Make a careful analysis of the educational needs and opportunities of the region.

(2) Develop and recommend to the state board of trustees a plan for providing postsecondary:

(A) general education;

(B) liberal arts education; and

(C) occupational and technical education;

programs and appropriate workforce development, assessment, and training services for the residents of that region.

(3) Develop and recommend a budget for regional programs and operations.

(4) Identify and recommend alternative methods of acquiring or securing facilities and equipment necessary for the delivery of effective regional programs.

(5) Facilitate and develop regional cooperation with employers, community leaders, economic development efforts, area ~~*vocational*~~ *career and technical education* centers, and other public and private education and training entities in order to provide postsecondary general, liberal arts, and occupational and technical education and training in an efficient and cost effective manner and to avoid duplication of services.

(6) Determine through evaluation, studies, or assessments the degree to which the established training needs of the region are being met.

(7) Make recommendations to the state board of trustees

concerning policies that appear to substantially affect the regional board's capacity to deliver effective and efficient programming.

SECTION 138. IC 21-30-6-2, AS ADDED BY P.L.2-2007, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A state educational institution shall keep all money or other proceeds derived from the sale, conveyance, or other disposition of real property received as a gift, bequest, or devise in a separate and distinct fund that is devoted exclusively to the uses designated in the gift, bequest, or devise.

(b) If the uses to which **the** real property may be devoted are not specifically designated or prescribed **in** a gift, bequest, or devise **of real property,** the board of trustees of the state educational institution may determine how to use the proceeds derived from the sale, conveyance, or disposition of the real property.

SECTION 139. IC 21-34-7-1, AS ADDED BY P.L.2-2007, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The board of trustees of a state educational institution that has entered into a written contract for a grant, pending the receipt of the grant, but within the limitations set forth in section 2 of this chapter, may:

(1) borrow from any person; and

(2) evidence the debt by a note or a series of notes of equal or unequal amounts containing the terms and conditions that the board of trustees **of** the state educational institution prescribes.

(b) Any note may pledge, for the payment of the principal and interest of the note:

(1) the proceeds of the grant; and

(2) any revenue that may be derived from the building facility being constructed, acquired, renovated, or improved by the proceeds of the note or notes.

SECTION 140. IC 21-34-10-4, AS ADDED BY P.L.2-2007, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Bonds, regardless of when the amount of bonds ~~are~~ **is** approved by the general assembly, may be issued in an amount not exceeding the sum of the following:

(1) The amount of bonds approved by the general assembly.

(2) The amounts described in section 3 of this chapter.

(3) The amount of the discount below par value, if bonds are sold

at a price below par value under IC 21-32-3-2.

SECTION 141. IC 21-35-4-8, AS ADDED BY P.L.2-2007, SECTION 276, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The principal and interest of the bonds for a project, when sold, are a primary, fixed charge against the net income of the project being ~~is~~ constructed and erected. The net income must be applied by the board of trustees in payment of the principal and interest of the bonds as the principal and interest become due until full and final payment of all of the bonds and interest is made.

SECTION 142. IC 21-35-5-5, AS ADDED BY P.L.2-2007, SECTION 276, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The board of trustees of a state educational institution may issue revenue obligations under IC 21-35-2 or IC 21-35-3 for any one (1) or more of the following:

(1) For any purpose or purposes **for** which IC 21-35-2 or IC 21-35-3 authorizes the borrowing of money.

(2) To reimburse the state educational institution for funds expended or advanced for interim financing of the cost of any revenue producing property before the issuance of revenue obligations on account of revenue producing property.

(3) Subject to applicable covenants and agreements with the holders of outstanding obligations, to fund or refund revenue obligations.

If the board of trustees determines that it would be advantageous to the state educational institution to exchange funding or refunding obligations for the revenue obligations being funded or refunded, the exchange may be made, if the actual interest cost is not increased.

SECTION 143. IC 21-35-6-5, AS ADDED BY P.L.2-2007, SECTION 276, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The lien of a pledge or mortgage under section 4 of this chapter, as determined and provided by the board of trustees and as authorized by this chapter, shall be a first and primary lien for the payment of the bonds and the interest on the bonds. In authorizing the issuance of the revenue bonds for any particular property or properties, the board of trustees may:

(1) limit the amount of bonds that may be issued as a first lien and charge against the property or properties and the net income from the properties; or

(2) subsequently authorize the issuance periodically of additional obligations secured by the same lien:

(A) to provide funds for the completion of the property or properties on account of which the original bonds were issued;

(B) for any other purpose for which Vincennes **University** has authority to issue bonds; or

(C) for purposes of both clauses (A) and (B).

(b) Additional bonds:

(1) shall be issued on the terms and conditions that the board of trustees determines; and

(2) may be secured equally and ratably, without preference, priority, or distinction, with the original issue of bonds or may be made junior to the original bonds.

SECTION 144. IC 21-35-7-7, AS ADDED BY P.L.2-2007, SECTION 276, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If the management and operation of the property ~~is~~ **are** to be by a developer or user, the specifications for the property must require that the property will be generally available to the students, faculty, staff, patients in hospitals or health care units, and visitors to hospitals or health care units, without discrimination and at reasonable charges. These charges shall be reviewed and revised periodically by the board of trustees of the state educational institution to assure that the charges are at all times nondiscriminatory and reasonable.

SECTION 145. IC 21-38-2-3, AS ADDED BY P.L.2-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A member of the board of trustees of Ivy Tech Community College is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b), unless the member holds another position that is considered a lucrative office within the meaning of Article 2, Section 9 of the Constitution of the State of Indiana.

(b) A member of the board of trustees of Ivy Tech Community College is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures **established** by the Indiana department of administration and approved by the budget agency.

SECTION 146. IC 21-38-3-3, AS ADDED BY P.L.2-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The board of trustees of Ball State University may define the duties and provide compensation for faculty and staff of the university. ~~including~~ **The authority of the board under this section includes the** authority to establish fringe benefit programs, including retirement benefits, that may be supplemental to, or instead of, state retirement programs for teachers or other public employees as authorized by law.

SECTION 147. IC 21-41-5-11, AS ADDED BY P.L.2-2007, SECTION 282, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Ivy Tech Community College may enter into the contracts that are necessary to provide equipment for a data processing school on or off the premises of:

(1) Ivy Tech Community College; or

(2) any of the college's ~~regional institutes.~~ **regions.**

SECTION 148. IC 21-43-6-2, AS ADDED BY P.L.234-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) To be eligible to earn a high school diploma, an individual **participating in the program established under this chapter** must be either:

(1) at least nineteen (19) years of age and not enrolled in a high school; or

(2) at least seventeen (17) years of age and have consent from the high school the individual attended most recently.

(b) The school corporation in which an individual described in this subdivision has legal settlement shall pay the individual's costs for high school level courses taken at Ivy Tech Community College during each year the individual is included in the school corporation's ADM.

SECTION 149. IC 21-43-6-3, AS ADDED BY P.L.2-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. To complete the requirements for a high school diploma, ~~the~~ **an** individual **participating in the program established under this chapter** must:

(1) pass:

(A) the graduation examination given under IC 20-32-4;

(B) an examination for a general education development diploma;

(C) an examination equivalent to the graduation examination:
(i) administered by Ivy Tech Community College; and
(ii) approved by the department of education; or
(D) an examination that demonstrates the student is ready for college level work:
(i) administered by Ivy Tech Community College; and
(ii) approved by the department of education; and
(2) complete the course work necessary to meet:
(A) the minimum high school course requirements established by the Indiana state board of education; and
(B) the requirements of Ivy Tech Community College.

SECTION 150. IC 21-43-7-2, AS ADDED BY P.L.2-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** To be eligible to earn a high school diploma, an individual **participating in the program established under this chapter** must be either:
(1) at least nineteen (19) years of age and not enrolled in a high school; or
(2) at least seventeen (17) years of age and have consent from the high school the individual attended most recently.

(b) The school corporation in which an individual described in this subdivision has legal settlement shall pay the individual's tuition for high school level courses taken at Vincennes University during each year the individual is included in the school corporation's ADM.

SECTION 151. IC 21-43-7-3, AS ADDED BY P.L.2-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. To complete the requirements for a high school diploma, ~~the~~ **an** individual **participating in the program established under this chapter** must:
(1) pass:
(A) the graduation examination given under IC 20-32-4;
(B) an examination for a general educational development diploma;
(C) an examination equivalent to the graduation examination:
(i) administered by Vincennes University; and
(ii) approved by the department of education established by IC 20-19-3-1; or
(D) an examination that demonstrates the student is ready for

college level work:

(i) administered by Vincennes University; and

(ii) approved by the department of education; and

(2) complete the course work necessary to meet:

(A) the minimum high school course requirements established by the Indiana state board of education; and

(B) the requirements of Vincennes University.

SECTION 152. IC 21-43-8-2, AS ADDED BY P.L.2-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** To be eligible to earn a high school diploma, an individual **participating in the program established under this chapter** must be either:

(1) at least nineteen (19) years of age and not enrolled in a school corporation; or

(2) at least seventeen (17) years of age and have consent from the high school the individual attended most recently.

(b) The school corporation in which an individual to whom this subdivision applies resides shall pay the individual's tuition for high school level courses taken at the state educational institution during each year the individual is included in the school corporation's ADM.

SECTION 153. IC 21-43-8-3, AS ADDED BY P.L.2-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. To complete the requirements for a high school diploma, ~~the~~ **an** individual **participating in the program established under this chapter** must have:

(1) passed:

(A) the graduation examination given under IC 20-32-4;

(B) an examination for a general educational development diploma;

(C) an examination equivalent to the graduation examination:

(i) administered by the state educational institution; and

(ii) approved by the department of education; or

(D) an examination that demonstrates the student is ready for college level work:

(i) administered by the state educational institution; and

(ii) approved by the department of education; and

(2) completed the course work necessary to meet:

(A) the minimum high school course requirements established by the Indiana state board of education; and

(B) the requirements of the state educational institution.

SECTION 154. IC 21-44-1-13, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. "Plan", for purposes of IC 21-44-5, refers to the plan for ~~a~~ statewide medical education established by the Indiana University School of Medicine under IC 21-44-5-7.

SECTION 155. IC 21-44-5-5, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The budget agency shall provide for necessary office space and secretarial personnel that ~~is:~~ **are:**

(1) requested by the board; and

(2) required for the conduct of the board's business.

(b) Board expenses may include necessary rent, salaries, and other necessary administrative expenses.

SECTION 156. IC 22-3-3-10, AS AMENDED BY P.L.134-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury.

(b) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

(c) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits

not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

(d) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the

total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(e) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages for the period stated for the injury.

(f) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

(g) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

(h) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (d)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (d)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(i) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to

temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (j) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1)

phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (h)(4), the compensation

shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (h)(5), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(j) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (i) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from

twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree;

for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars ($1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars ($1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars ($2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars ($3,150) per degree.

(10) With respect to injuries occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment

from one (1) to ten (10), one thousand three hundred sixty-five dollars ($1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars ($1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars ($2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars ($3,200) per degree.

(11) With respect to injuries occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars ($1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred eighty-five dollars ($1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars ($2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars ($3,300) per degree.

(12) With respect to injuries occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars ($2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars ($3,500) per degree.

(k) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (i) and (j) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars ($882).

(11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars ($900).

(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars ($930).

~~(11)~~ **(13)** With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars ($954).

~~(12)~~ **(14)** With respect to injuries occurring on or after July 1, 2009, nine hundred seventy-five dollars ($975).

SECTION 157. IC 22-3-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) There is created a special fund known as the residual asbestos injury fund (referred to as "the fund" in this chapter) for the purpose of providing compensation to employees who become totally and permanently disabled from an exposure to asbestos while in employment within Indiana and who are eligible for benefits under section 3 of this chapter **(expired August 1, 2007, and repealed)** and not eligible for benefits under IC 22-3-7. The fund shall be administered by the worker's compensation board (referred to as "the board" in this chapter).

(b) The fund is not a part of the general fund. Money in the fund at the end of a particular fiscal year and interest accruing from the investment of the money does not revert to the state general fund. The fund shall be used only for the payment of awards of compensation and expense of medical examinations made and ordered by the board and chargeable against the fund under this section and shall be paid for that purpose by the treasurer of state upon award or order of the board.

SECTION 158. IC 22-4-8-2, AS AMENDED BY P.L.2-2007, SECTION 291, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The term "employment" shall include:

(a) An individual's entire service performed within or both within and without Indiana if the service is localized in Indiana.

(b) An individual's entire service performed within or both within and without Indiana if the service is not localized in any state, but some of the service is performed in Indiana and:

(1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled is in Indiana; ~~or~~

(2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in Indiana; or

(3) such service is not covered under the unemployment compensation law of any other state or Canada, and the place from which the service is directed or controlled is in Indiana.

(c) Services not covered under subsections (a) and (b) and performed entirely without Indiana, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the United States, shall be deemed to be employment subject to this article if the department approves the election of the individual performing such services and the employing unit for which such services are performed, that the entire services of such individual shall be deemed to be employment subject to this article.

(d) Services covered by an election duly approved by the department, in accordance with an agreement pursuant to IC 22-4-22-1 through IC 22-4-22-5, shall be deemed to be employment during the effective period of such election.

(e) Service shall be deemed to be localized within a state if:

(1) the service is performed entirely within such state; or

(2) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, such as is temporary or transitory in nature or consists of isolated transactions.

(f) Periods of vacation with pay or leave with pay, other than military leave granted or given to an individual by an employer.

(g) Notwithstanding any other provisions of this article, the term employment shall also include all services performed by an officer or member of the crew of an American vessel or American aircraft, on or in connection with such vessel or such aircraft, provided that the operating office, from which the operations of such vessel operating on navigable waters within or the operations of such aircraft within, or the operation of such vessel or aircraft within and without the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this state.

(h) Services performed for an employer which is subject to contribution solely by reason of liability for any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.

(i) **The following:**

(1) Service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities (or in the employ of this state and one (1) or more other states or their instrumentalities) for a hospital or eligible postsecondary educational institution located in Indiana. ~~and~~

~~(1)~~ **(2)** Service performed after December 31, 1977, by an individual in the employ of this state or a political subdivision of the state or any instrumentality of the state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, if the service is excluded from "employment" as defined in Section 3306(c)(7) of the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(7)). However, service performed after December 31, 1977, as the following is excluded:

(A) An elected official.

(B) A member of a legislative body or of the judiciary of a state or political subdivision.

(C) A member of the state national guard or air national guard.

(D) An employee serving on a temporary basis in the case of fire, snow, storm, earthquake, flood, or similar emergency.

(E) An individual in a position which, under the laws of the state, is designated as:

(i) a major nontenured policymaking or advisory position; or

(ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week.

(3) Service performed after March 31, 1981, by an individual whose service is part of an unemployment work relief or work training program assisted or financed in whole by any federal agency or an agency of this state or a political subdivision of this state, by an individual receiving such work relief or work training is excluded.

(j) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met:

(1) The service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act (26 U.S.C. 3306(c)(8)). ~~and~~

(2) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(3) For the purposes of subdivisions (1) and (2), the term "employment" does not apply to service performed as follows:

(A) In the employ of:

(i) a church or convention or association of churches; or

(ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(B) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(C) Before January 1, 1978, in the employ of a school which is not an eligible postsecondary educational institution.

(D) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who

because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work.

(E) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(k) The service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subsection (a), (b), or (e) or the parallel provisions of another state's law), if:

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States; but

(A) The employer is an individual who is a resident of this state; or

(B) The employer is a corporation which is organized under the laws of this state; or

(C) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one (1) other state; or

(3) None of the criteria of subdivisions (1) and (2) is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(4) An "American employer," for purposes of this subsection, means:

(A) An individual who is a resident of the United States; or

(B) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(C) A trust, if all of the trustees are residents of the United States; or

(D) A corporation organized under the laws of the United

States or of any state.

(l)(1) Service performed after December 31, 1977, by an individual in agricultural labor (as defined in section 3(c) of this chapter) when the service is performed for an employing unit which:

(A) during any calendar quarter in either the current or preceding calendar year paid cash remuneration of twenty thousand dollars ($20,000) or more to individuals employed in agricultural labor; or

(B) for some portion of a day in each of twenty (20) different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same time.

(2) For the purposes of this subsection, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of the crew leader:

(A) if the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(B) if the individual is not an employee of another person within the meaning of section 1 of this chapter.

(3) For the purposes of subdivision (1), in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (2):

(A) the other person and not the crew leader shall be treated as the employer of the individual; and

(B) the other person shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader (either on the individual's own behalf or on behalf of the other person) for the service in agricultural labor performed for the other person.

(4) For the purposes of this subsection, the term "crew leader"

means an individual who:

(A) furnishes individuals to perform service in agricultural labor for any other person;

(B) pays (either on the individual's own behalf or on behalf of the other person) the agricultural laborers furnished by the individual for the service in agricultural labor performed by them; and

(C) has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person.

(m) The term "employment" includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in the domestic service in any calendar quarter.

SECTION 159. IC 22-4-17-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) When an individual files an initial claim, the individual shall be advised of the following:

(1) Unemployment compensation is subject to federal, state, and local income taxes.

(2) Requirements exist concerning estimated tax payments.

(3) After December 31, 1996, the individual may elect to have income taxes withheld from the individual's payment of unemployment compensation. If an election is made, the department shall ~~make the following withholdings for federal, state, and local income taxes: (A)~~ **withhold** federal income tax ~~will be withheld by the department~~ at the applicable rate provided in the Internal Revenue Code.

(4) An individual is allowed to change an election made under this section.

(b) Money withheld from unemployment compensation under this section shall remain in the unemployment fund until transferred to the federal taxing authority for payment of income taxes.

(c) The commissioner shall follow all procedures of the United States Department of Labor and the Internal Revenue Service

concerning the withholding of income taxes.

(d) Money shall be deducted and withheld in accordance with the priorities established in regulations developed by the commissioner.

SECTION 160. IC 22-4-26-5, AS AMENDED BY P.L.234-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Money credited to the account of this state in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to 42 U.S.C. 1103, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this article and public employment offices pursuant to a specific appropriation by the general assembly, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation statute which:

(1) specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(2) except as provided in subsection (i), limits the period within which such money may be obligated to a period ending not more than two (2) years after the date of the enactment of the appropriation statute; and

(3) limits the total amount which may be obligated during a twelve (12) month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which:

(A) the aggregate of the amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, during such twelve (12) month period and the twenty-four (24) preceding twelve (12) month periods; exceeds

(B) the aggregate of the amounts obligated by this state pursuant to this section and amounts paid out for benefits and charged against the amounts credited to the account of this state during such twenty-five (25) twelve (12) month periods.

(b) For the purposes of this section, amounts obligated by this state during any such twelve (12) month period shall be charged against equivalent amounts which were first credited and which have not previously been so charged, except that no amount obligated for administration of this article and public employment offices during any such twelve (12) month period may be charged against any amount credited during such twelve (12) month period earlier than the

fourteenth preceding such twelve (12) month period.

(c) Amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, may not be obligated except for the payment of cash benefits to individuals with respect to their unemployment and for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section.

(d) Money appropriated as provided in this section for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section shall be requisitioned as needed for payment of obligations incurred under such appropriation and upon requisition shall be deposited in the employment and training services administration fund but, until expended, shall remain a part of the unemployment insurance benefit fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated, or if it remains unexpended at the end of the period specified by the statute appropriating such money, it shall be withdrawn and returned to the Secretary of the Treasury of the United States for credit to this state's account in the unemployment trust fund.

(e) There is appropriated out of the funds made available to Indiana under Section 903 of the Social Security Act, as amended by Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (which is Title II of the federal Jobs Creation and Worker Assistance Act of 2002, Pub.L107-147), seventy-two million two hundred thousand dollars ($72,200,000) to the department of workforce development. The appropriation made by this subsection is available for ten (10) state fiscal years beginning with the state fiscal year beginning July 1, 2003. Unencumbered money at the end of a state fiscal year does not revert to the state general fund.

(f) Money appropriated under subsection (e) is subject to the requirements of IC 22-4-37-1.

(g) Money appropriated under subsection (e) may be used only for the following purposes:

(1) The administration of the Unemployment Insurance (UI) program and the Wagner Peyser public employment office program.

(2) Acquiring land and erecting buildings for the use of the

department of workforce development.

(3) Improvements, facilities, paving, landscaping, and equipment repair and maintenance that may be required by the department of workforce development.

(h) In accordance with the requirements of subsection (g), the department of workforce development may allocate up to the following amounts from the amount described in subsection (e) for the following purposes:

(1) Thirty-nine million two hundred thousand dollars ($39,200,000) to be used for the modernization of the Unemployment Insurance (UI) system beginning July 1, 2003, and ending June 30, 2013.

(2) For:

(A) the state fiscal year beginning after June 30, 2003, and ending before July 1, 2004, five million dollars ($5,000,000);

(B) the state fiscal year beginning after June 30, 2004, and ending before July 1, 2005, five million dollars ($5,000,000);

(C) the state fiscal year beginning after June 30, 2005, and ending before July 1, 2006, five million dollars ($5,000,000);

(D) the state fiscal year beginning after June 30, 2006, and ending before July 1, 2007, five million dollars ($5,000,000);

(E) the state fiscal year beginning after June 30, 2007, and ending before July 1, 2008, five million dollars ($5,000,000); and

(F) state fiscal years beginning after June 30, 2008, and ending before July 1, 2012, the unused part of any amount allocated in any year for any purpose under this subsection;

for the JOBS proposal to meet the workforce needs of Indiana employers in high wage, high skill, high demand occupations.

(3) For:

(A) the state fiscal year beginning after June 30, 2003, and ending before July 1, 2004, four million dollars ($4,000,000); **and**

(B) the state fiscal year beginning after June 30, 2004, and ending before July 1, 2005, four million dollars ($4,000,000);

to be used by the workforce investment boards in the administration of Indiana's public employment offices.

(i) The amount appropriated under subsection (e) for the payment

of expenses incurred in the administration of this article and public employment is not required to be obligated within the two (2) year period described in subsection (a)(2).

SECTION 161. IC 22-4.1-2-2, AS AMENDED BY P.L.140-2007, SECTION 6, AND AS AMENDED BY P.L.234-2007, SECTION 144, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department is comprised of the following entities reorganized within the department:

(1) The department of employment and training services, including the following:

(A) The unemployment insurance board.

(B) The unemployment insurance review board.

(2) The office of workforce literacy established by IC 22-4.1-10-1.

(3) The Indiana commission ~~on vocational~~ *for career* and technical education established by IC 22-4.1-13-6.

~~(4) The workforce proficiency panel established by IC 22-4.1-16-2.~~

SECTION 162. IC 22-4.1-4-1, AS AMENDED BY P.L.140-2007, SECTION 7, AND AS AMENDED BY P.L.234-2007, SECTION 146, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The department may undertake duties identified by the commissioner as related to workforce development initiatives that were required of or authorized to be undertaken before July 1, 1994, by:

(1) the department of employment and training services;

(2) the office of workforce literacy established by IC 22-4.1-10-1; *or*

(3) the Indiana commission ~~on vocational~~ *for career* and technical education established by IC 22-4.1-13-6. ~~or~~

~~(4) the workforce proficiency panel established by IC 22-4.1-16-2.~~

SECTION 163. IC 22-4.1-14-6, AS AMENDED BY P.L.140-2007, SECTION 8, AND AS AMENDED BY P.L.234-2007, SECTION 162, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Each workforce partnership plan must do the following:

(1) Address the need to maximize:

(A) the use of ~~vocational~~ *career* and technical education

programs and services; and

(B) the articulation of ~~*vocational*~~ *career* and technical education programs;

between the secondary level and postsecondary level.

(2) Identify ~~*vocational*~~ *career* and technical education program groupings to coordinate ~~*vocational*~~ *career* and technical education programs within a geographic area.

(3) Identify particular certificates of achievement under IC 20-32-3 ~~and *IC 21-43-3*~~ and indicate the circumstances under which a state educational institution may elect to grant academic credit to a student who does the following:

(A) Acquires the particular certificate of achievement.

(B) Satisfies the standards for receipt of academic credit as determined by the state educational institution.

(4) Provide for the use of joint secondary level and postsecondary level faculty committees to organize ~~*vocational*~~ *career* and technical education program articulation.

(5) Comply with 20 U.S.C. 2301 et seq.

SECTION 164. IC 23-1-39-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A bylaw that fixes a greater than majority quorum or voting requirement for action by the board of directors may be amended or repealed:

(1) if originally adopted by the shareholders, only by the shareholders; **or**

(2) if originally adopted by the board of directors, only by the board of directors.

(b) A bylaw adopted or amended by the shareholders that fixes a greater than majority quorum or voting requirement for action by the board of directors may provide that it may be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(c) Action by the board of directors under subsection (a)(2) to adopt or amend a bylaw that changes the quorum or voting requirement for action by the board of directors must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

SECTION 165. IC 23-1-40-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) After

adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (g)) or share exchange for approval by its shareholders.

(b) For a plan of merger or share exchange to be approved:

(1) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(2) the shareholders entitled to vote must approve the plan.

(c) The board of directors may condition its submission of the proposed merger or share exchange on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with IC 23-1-29-5. The notice must also state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan of merger or share exchange and must contain or be accompanied by a copy or summary of the plan.

(e) Unless this article, the articles of incorporation, or the board of directors (acting under subsection (c)) ~~require~~ **requires** a greater vote or a vote by voting groups, the plan of merger or share exchange to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(f) Separate voting by voting groups is required:

(1) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one (1) or more separate voting groups on the proposed amendment under IC 23-1-38-4; **or**

(2) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(g) Action by the shareholders of the surviving corporation on a plan of merger is not required if:

(1) the articles of incorporation of the surviving corporation will

not differ (except for amendments enumerated in IC 23-1-38-2) from its articles before the merger;

(2) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same proportionate number of shares relative to the number of shares held by all such shareholders (except for shares of the surviving corporation received solely as a result of the shareholder's proportionate shareholdings in the other corporations party to the merger), with identical designations, preferences, limitations, and relative rights, immediately after;

(3) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than twenty percent (20%) the total number of voting shares (adjusted to reflect any forward or reverse share split that occurs under the plan of merger) of the surviving corporation outstanding immediately before the merger; and

(4) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than twenty percent (20%) the total number of participating shares (adjusted to reflect any forward or reverse share split that occurs under the plan of merger) outstanding immediately before the merger.

(h) As used in subsection (g):

(1) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(2) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

(i) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned (subject to any contractual rights), without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or,

if none is set forth, in the manner determined by the board of directors.

SECTION 166. IC 23-2-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The board of directors shall submit to the commissioner a plan of operation, and such subsequent amendments to the plan as are necessary to assure the fair, reasonable, and equitable administration of the fund. The plan of operation is effective upon the commissioner's approval, which must be in writing.

(b) If the board of directors fails to submit by September 1, 1983, a plan of operation considered suitable by the commissioner, or, if at any other time the board of directors fails to submit amendments to the plan considered necessary by the commissioner, the commissioner shall adopt rules under IC 4-22-2 necessary to carry out this chapter. The rules continue in force until modified by the commissioner or superseded by a plan submitted by the board of directors and approved by the commissioner.

(c) The plan of operation shall establish:

(1) procedures for handling the assets of the fund;

(2) the method of reimbursing members of the board of directors under section 14 of this chapter;

(3) regular places and times for meetings of the board of directors;

(4) recordkeeping procedures for all financial transactions relating to the fund and the board of directors; **and**

(5) any additional provisions necessary for the execution of the powers and duties of the board of directors.

SECTION 167. IC 23-2-5-5, AS AMENDED BY P.L.230-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An application for license or renewal of a license must contain:

(1) consent to service of process under subsection (h);

(2) evidence of the bond required in subsection (e);

(3) an application fee of four hundred dollars ($400), plus two hundred dollars ($200) for each ultimate equitable owner;

(4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment, unless waived by the commissioner under

subsection ~~(f),~~ **(i);**

(5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;

(6) the name and registration number for each originator to be employed by the licensee;

(7) the name and registration number for each principal manager; and

(8) for each ultimate equitable owner, the following information:

~~(1)~~ **(A)** The name of the ultimate equitable owner.

~~(2)~~ **(B)** The address of the ultimate equitable owner, including the home address of the ultimate equitable owner if the ultimate equitable owner is an individual.

~~(3)~~ **(C)** The telephone number of the ultimate equitable owner, including the home telephone number if the ultimate equitable owner is an individual.

~~(4)~~ **(D)** The ultimate equitable owner's Social Security number and date of birth, if the ultimate equitable owner is an individual.

(b) An application for registration as an originator shall be made on a registration form prescribed by the commissioner. The application must include the following information for the individual that seeks to be registered as an originator:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) licensee; or

(B) applicant for licensure;

for whom the individual seeks to be employed as an originator.

(6) Consent to service of process under subsection (h).

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) An application fee of one hundred dollars ($100).

(9) All registration numbers previously issued to the individual under this chapter, if applicable.

(c) An application for registration as a principal manager shall be

made on a registration form prescribed by the commissioner. The application must include the following information for the individual who seeks to be registered as a principal manager:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) licensee; or

(B) applicant for licensure;

for whom the individual seeks to be employed as a principal manager.

(6) Consent to service of process under subsection (h).

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) Evidence that the individual has at least three (3) years of experience in the:

(A) loan brokerage; or

(B) financial services;

business.

(9) An application fee of two hundred dollars ($200).

(10) All registration numbers previously issued to the individual, if applicable.

(d) The commissioner shall require an applicant for registration as:

(1) an originator under subsection (b); or

(2) a principal manager under subsection (c);

to pass a written examination prepared and administered by the commissioner or an agent appointed by the commissioner.

(e) A licensee must maintain a bond satisfactory to the commissioner in the amount of fifty thousand dollars ($50,000), which shall be in favor of the state and shall secure payment of damages to any person aggrieved by any violation of this chapter by the licensee.

(f) The commissioner shall issue a license and license number to an applicant that meets the licensure requirements of this chapter. Whenever the registration provisions of this chapter have been complied with, the commissioner shall issue a certificate of registration and registration number authorizing the registrant to:

(1) engage in origination activities; or

(2) act as a principal manager;

whichever applies.

(g) Licenses and initial certificates of registration issued by the commissioner are valid until January 1 of the second year after issuance.

(h) Every applicant for licensure or registration or for renewal of a license or a registration shall file with the commissioner, in such form as the commissioner by rule or order prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

(i) Upon good cause shown, the commissioner may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

(j) Whenever an initial or a renewal application for a license or registration is denied or withdrawn, the commissioner shall retain the initial or renewal application fee paid.

(k) The commissioner shall require each:

(1) equitable owner; and

(2) applicant for registration as:

(A) an originator; or

(B) a principal manager;

to undergo a criminal background check at the expense of the equitable owner or applicant.

(l) The commissioner may check the qualifications, background, licensing status, and service history of each:

(1) equitable owner; and

(2) applicant for registration as:

(A) an originator; or

(B) a principal manager;

by accessing, upon availability, a multistate automated licensing system for mortgage brokers and originators, including the National Mortgage Licensing Database proposed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The equitable owner or the applicant shall pay any fees or costs associated with a check conducted under this subsection.

SECTION 168. IC 23-14-48-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) In addition to meeting the requirements of sections 1 through 3 of this chapter, a cemetery that:

(1) is organized after March 6, 1953, and before July 1, 1997, by incorporation, association, individually, or any other means; or

(2) has its first burial after March 6, 1953, and before July 1, 1997;

shall, before disposing of a burial lot or right, making a sale of a burial lot or right, or making its first burial, cause to be deposited in a financial institution the sum of twenty-five thousand dollars ($25,000) in cash in the perpetual care fund or endowment care fund established under this chapter for the maintenance of the cemetery.

(b) The cemetery owner shall designate the financial institution as trustee of the fund. The financial institution must execute an affidavit stating that it has accepted the trusteeship of the fund and that the twenty-five thousand dollars ($25,000) has been deposited in the fund. The cemetery shall:

(1) exhibit the affidavit in the principal office of the cemetery;

(2) keep the affidavit available at all times for examination; and

(3) record the affidavit in the miscellaneous records in the office of the recorder in the county in which the cemetery is located.

(c) When the cemetery has deposited in the perpetual care fund or endowment care fund, as required by this section, fifty thousand dollars ($50,000):

(1) the cemetery shall submit proof of this fact to its trustee; and

(2) the trustee shall pay over to the cemetery the amount of twenty-five thousand dollars ($25,000) that the cemetery deposited in the fund under ~~subsection (c).~~ **subsection (a).**

SECTION 169. IC 23-14-48-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) In addition to meeting the requirements of sections 1 through 3 of this chapter, a cemetery that:

(1) is organized after June 30, 1997, by incorporation, or any other means; or

(2) has its first burial, entombment, or inurnment after June 30, 1997;

shall, before disposing of a burial lot or right, making a sale of a burial

lot or right, or making its first burial, entombment, or inurnment cause to be deposited in a financial institution one hundred thousand dollars ($100,000) in cash in the perpetual care fund or endowment care fund established under this chapter for the maintenance of the cemetery.

(b) The cemetery owner shall designate the financial institution as trustee of the fund. The financial institution must execute an affidavit stating that it has accepted the trusteeship of the fund and that the one hundred thousand dollars ($100,000) has been deposited in the fund. The cemetery shall:

(1) exhibit the affidavit in the principal office of the cemetery;

(2) keep the affidavit available at all times for examination; and

(3) record the affidavit in the miscellaneous records in the office of the recorder of the county in which the cemetery is located.

(c) When the cemetery has deposited in the perpetual care fund or endowment care fund, as required by this section, two hundred thousand dollars ($200,000):

(1) the cemetery shall submit proof of this fact to its trustee; and

(2) the trustee shall pay over to the cemetery one hundred thousand dollars ($100,000) that the cemetery deposited in the fund under ~~subsection (b).~~ **subsection (a).**

SECTION 170. IC 23-14-55-2, AS AMENDED BY P.L.102-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (d), the owner of a cemetery is authorized to inter, entomb, or inurn the body or cremated remains of a deceased human upon the receipt of a written authorization of an individual who professes either of the following:

(1) To be (in the priority listed) one (1) of the following:

(A) An individual who possesses a health care power of attorney of the decedent, unless the power of attorney prohibits the individual from making plans for the disposition of the decedent's body.

(B) The individual who was the spouse of the decedent at the time of the decedent's death.

(C) The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the owner of the cemetery receives a written objection to the

disposition from another adult child.

(D) The decedent's surviving parent. If the decedent is survived by both parents, either parent ~~may serve as the authorizing agent~~ unless the cemetery owner receives a written objection to the disposition from the other parent.

(E) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree of kinship is surviving, any person of that degree ~~may serve as the authorizing agent~~ unless the cemetery owner receives a written objection to the disposition from one (1) or more persons of the same degree of kinship.

(2) To have acquired the right to control the disposition of the deceased human body or cremated remains.

The owner of a cemetery may accept the authorization of an individual only if all other individuals of the same priority or a higher priority (according to the priority listing in this subsection) are deceased, are barred from authorizing the disposition of the deceased human body or cremated remains under subsection (d), or are physically or mentally incapacitated from exercising the authorization, and the incapacity is certified to by a qualified medical doctor.

(b) A cemetery owner is not liable in any action for making an interment, entombment, or inurnment under a written authorization described in subsection (a) unless the cemetery owner had actual notice that the representation made under subsection (a) by the individual who issued the written authorization was untrue.

(c) An action may not be brought against the owner of a cemetery relating to the remains of a human that have been left in the possession of the cemetery owner without permanent interment, entombment, or inurnment for a period of three (3) years, unless the cemetery owner has entered into a written contract for the care of the remains.

(d) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency

investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize the disposition of the decedent's body or cremated remains.

(e) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner of the determination referred to in subsection (d)(2).

SECTION 171. IC 23-19-1-3, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **As used in this article:**

(1) "Securities Act of 1933" (15 U.S.C. 77a et seq.);

(2) "Securities Exchange Act of 1934" (15 U.S.C. 78a et seq.);

(3) "Public Utility Holding Company Act of 1935" (15 U.S.C. 79 et seq.);

(4) "Investment Company Act of 1940" (15 U.S.C. 80a-1 et seq.);

(5) "Investment Advisers Act of 1940" (15 U.S.C. 80b-1 et seq.);

(6) "Employee Retirement Income Security Act of 1974" (29 U.S.C. 1001 et seq.);

(7) "National Housing Act" (12 U.S.C. 1701 et seq.);

(8) "Commodity Exchange Act" (7 U.S.C. 1 et seq.);

(9) "Internal Revenue Code" (26 U.S.C. 1 et seq.);

(10) "Securities Investor Protection Act of 1970" (15 U.S.C. 78a et seq.);

(11) "Securities Litigation Uniform Standards Act of 1998" (112 Stat. 3227);

(12) "Small Business Investment Act of 1958" (15 U.S.C. 661 et seq.); and

(13) "Electronic Signatures in Global and National Commerce Act" (15 U.S.C. 7001 et seq.);

mean those statutes, and the rules and regulations adopted under those statutes, as in effect on ~~January 1, 2009.~~ **July 1, 2008.**

SECTION 172. IC 23-19-6-5, AS ADDED BY P.L.230-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The commissioner may:

(1) issue forms and orders and, after notice and comment, may adopt and amend rules necessary or appropriate to carry out this article and may repeal rules, including rules and forms governing

registration statements, applications, notice filings, reports, and other records;

(2) by rule, define terms, whether or not used in this article, but those definitions may not be inconsistent with this article; and

(3) by rule, classify securities, persons, and transactions and adopt different requirements for different classes.

(b) Under this article, a rule or form may not be adopted or amended, or an order issued or amended, unless the commissioner finds that the rule, form, order, or amendment is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes intended by this article.

(c) Subject to Section 15(h) of the Securities Exchange Act of 1938 (15 U.S.C. 78o(h)) and Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), the commissioner may require that a financial statement filed under this article be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule adopted or order issued under this article. A rule adopted or order issued under this article may establish:

(1) subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) and Section 222 of the Investment ~~Advisors~~ **Advisers** Act of 1940 (15 U.S.C. 80b-18a), the form and content of financial statements required under this article;

(2) whether unconsolidated financial statements must be filed; and

(3) whether required financial statements must be audited by an independent certified public accountant.

(d) The commissioner may provide interpretative opinions or issue determinations that the commissioner will not institute a proceeding or an action under this article against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this article. The commissioner shall charge a fee of one hundred dollars ($100) for an ~~interpretive~~ **interpretative** opinion or determination.

(e) A penalty under this article may not be imposed for, and liability does not arise from, conduct that is engaged in or omitted in good faith and reasonably believed to be conforming to a rule, form, or order of the commissioner under this article.

(f) A hearing in an administrative proceeding under this article must be conducted in public unless the commissioner finds a statutory basis that would allow the hearing to be closed to the public.

SECTION 173. IC 24-4-15-5, AS ADDED BY P.L.129-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. An owner or operator of a health club shall do the following:

(1) Ensure that a defibrillator is located on the health club premises and is easily accessible to the health club staff, members, and guests.

(2) Employ at least one (1) individual who:

(A) has satisfactorily completed a course approved by the American Red Cross or the American Heart Association; and

(B) is currently certified;

in cardiopulmonary resuscitation and defibrillator use.

(3) Reasonably ensure that at least one (1) individual described under subdivision (2) is on the health club premises when staff is present at the health club during the health club's business hours.

(4) A health club that is not staffed must have the following on the premises:

(A) A telephone for 911 telephone call access.

(B) A sign in plain view containing an advisory warning that indicates that members of the unstaffed health ~~spa~~ **club** should be aware that working out alone may pose risks to the health ~~spa~~ **club** member's health and safety.

(C) A sign in plain view providing instruction in the use of the automated external defibrillator and in cardiopulmonary resuscitation.

(5) Ensure compliance with the requirements set forth in IC 16-31-6.5.

(6) Post a sign at each entrance to the health club that indicates the location of each defibrillator.

SECTION 174. IC 24-4.5-3-503, AS AMENDED BY P.L.217-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 503. License to Make Consumer Loans—(1) The department shall receive and act on all applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions.

(2) A license shall not be issued unless the department finds that the financial responsibility, character, and fitness of the applicant and of the members of the applicant (if the applicant is a copartnership or an association) and of the officers and directors of the applicant (if the applicant is a corporation) are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article. The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(3) Evidence of compliance with this section may include:

(a) criminal background checks, including a national criminal history check by the Federal Bureau of Investigation;

(b) credit histories; and

(c) other background checks considered necessary by the director.

(4) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(5) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license as provided in IC 4-21.5.

(6) The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An initial investigation fee as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

(7) A fee as established by the department under IC 28-11-3-5 may be charged for each day the annual renewal fee under subsection (6)(c) is delinquent.

(8) The applicant may deduct the fees required under subsection (6)(a) through (6)(c) from the filing fees paid under IC 24-4.5-6-203.

(9) A loan license issued under this section is not assignable or transferable.

(10) Subject to subsection (11), the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses under this section; and

(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system.

(11) The director's authority to designate an automated central licensing system and repository under subsection (10) is subject to the following:

(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:

(i) submit information to; or

(ii) participate in;

the automated central licensing system and repository.

(b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute; ~~or~~

(ii) initiate any civil action based on information obtained from the automated central licensing system **and repository** if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the automated central licensing system **and repository** if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are furnished by the director, the director's designee, or a licensee, or that are otherwise obtained by the automated central licensing system and repository, are confidential and privileged by law and are not:

(i) subject to inspection under IC 5-14-3;

(ii) subject to subpoena;

(iii) subject to discovery; or

(iv) admissible in evidence in any civil action.

However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.

(d) Disclosure of documents, materials, and information:

(i) to the director or the director's designee; or

(ii) by the director or the director's designee;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.

(f) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(g) The director may require a licensee required to submit information to the automated central licensing system and repository to pay a processing fee considered reasonable by the director.

SECTION 175. IC 25-1-2-2.1, AS AMENDED BY P.L.200-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.

(2) Architects and landscape architects.

(3) Dry cleaners.
(4) Professional engineers.
(5) Land surveyors.
(6) Real estate brokers.
(7) Real estate agents.
(8) Security dealers' licenses issued by the securities commissioner.
(9) Dental hygienists.
(10) Dentists.
(11) Veterinarians.
(12) Physicians.
(13) Chiropractors.
(14) Physical therapists.
(15) Optometrists.
(16) Pharmacists and assistants, drugstores or pharmacies.
(17) Motels and mobile home community licenses.
(18) Nurses.
(19) Podiatrists.
(20) Occupational therapists and occupational therapy assistants.
(21) Respiratory care practitioners.
(22) Social workers, marriage and family therapists, and mental health counselors.
(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
(24) Wholesale legend drug distributors.
(25) Physician assistants.
(26) Dietitians.
(27) Hypnotists.
(28) Athlete agents.
(29) Manufactured home installers.
(30) Home inspectors.
~~(31) Registered interior designers.~~
~~(32)~~ **(31)** Massage therapists.

SECTION 176. IC 25-1-2-6, AS AMENDED BY P.L.185-2007, SECTION 1, AND AS AMENDED BY P.L.200-2007, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses,

registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.

(2) Indiana grain buyers and warehouse licensing agency.

(3) Indiana auctioneer commission.

(4) Board of registration for architects **and** landscape architects. ~~and registered interior designers.~~

(5) State board of barber examiners.

(6) State board of cosmetology examiners.

(7) Medical licensing board of Indiana.

(8) Secretary of state.

(9) State board of dentistry.

(10) State board of funeral and cemetery service.

(11) Worker's compensation board of Indiana.

(12) Indiana state board of health facility administrators.

(13) Committee of hearing aid dealer examiners.

(14) Indiana state board of nursing.

(15) Indiana optometry board.

(16) Indiana board of pharmacy.

(17) Indiana plumbing commission.

(18) Board of podiatric medicine.

(19) Private ~~*detectives*~~ *investigator and security guard* licensing board.

(20) State board of registration for professional engineers.

(21) Board of environmental health specialists.

(22) State psychology board.

(23) Indiana real estate commission.

(24) Speech-language pathology and audiology board.

(25) Department of natural resources.

(26) State boxing commission.

(27) Board of chiropractic examiners.

(28) Mining board.

(29) Indiana board of veterinary medical examiners.

(30) State department of health.

(31) Indiana physical therapy committee.

(32) Respiratory care committee.

(33) Occupational therapy committee.

(34) Social worker, marriage and family therapist, and mental health counselor board.

(35) Real estate appraiser licensure and certification board.

(36) State board of registration for land surveyors.

(37) Physician assistant committee.

(38) Indiana dietitians certification board.

(39) Indiana hypnotist committee.

(40) Attorney general (only for the regulation of athlete agents).

(41) Manufactured home installer licensing board.

(42) Home inspectors licensing board.

(43) State board of massage therapy.

~~(43)~~ *(44)* Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 177. IC 25-1-6-3, AS AMENDED BY P.L.185-2007, SECTION 3, AND AS AMENDED BY P.L.200-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of funeral and cemetery service (IC 25-15-9).

(8) State board of registration for professional engineers (IC 25-31-1-3).

(9) Indiana plumbing commission (IC 25-28.5-1-3).

(10) Indiana real estate commission (IC 25-34.1).

(11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

(12) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*

(13) State board of registration for land surveyors (IC 25-21.5-2-1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 178. IC 25-1-7-1, AS AMENDED BY P.L.185-2007, SECTION 4, AS AMENDED BY P.L.193-2007, SECTION 4, AND AS AMENDED BY P.L.200-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects

~~and registered interior designers~~ (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15-9).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1).**
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).
(35) Manufactured home installer licensing board (IC 25-23.7).
(36) Home inspectors licensing board (IC 25-20.2-3-1).
(37) State department of health.
~~(37)~~ **(38)** *State board of massage therapy (IC 25-21.8-2-1).*
~~(38)~~ **(39)** Any other occupational or professional agency created after June 30, 1981.

SECTION 179. IC 25-1-8-1, AS AMENDED BY P.L.185-2007, SECTION 5, AND AS AMENDED BY P.L.200-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Mining board (IC 22-10-1.5-2).
(14) Indiana state board of nursing (IC 25-23-1).
(15) Indiana optometry board (IC 25-24).
(16) Indiana board of pharmacy (IC 25-26).
(17) Indiana plumbing commission (IC 25-28.5-1-3).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2-1).

(22) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1-3).~~ **(IC 25-38.1-2-1).**

(23) Department of insurance (IC 27-1).

(24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.

(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(26) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*

(27) Occupational therapy committee (IC 25-23.5-2-1).

(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).

(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(30) State board of registration for land surveyors (IC 25-21.5-2-1).

(31) Physician assistant committee (IC 25-27.5).

(32) Indiana athletic trainers board (IC 25-5.1-2-1).

(33) Board of podiatric medicine (IC 25-29-2-1).

(34) Indiana dietitians certification board (IC 25-14.5-2-1).

(35) Indiana physical therapy committee (IC 25-27).

(36) Manufactured home installer licensing board (IC 25-23.7).

(37) Home inspectors licensing board (IC 25-20.2-3-1).

(38) State board of massage therapy (IC 25-21.8-2-1).

~~*(38)*~~ *(39)* Any other occupational or professional agency created after June 30, 1981.

SECTION 180. IC 25-1-8-6, AS AMENDED BY P.L.185-2007, SECTION 6, AND AS AMENDED BY P.L.197-2007, SECTION 20, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

(6) State boxing commission (IC 25-9-1).
(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee ~~on~~ **of** hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).
(24) Indiana board of pharmacy (IC 25-26).
(25) Indiana physical therapy committee (IC 25-27).
(26) Physician assistant committee (IC 25-27.5).
(27) Indiana plumbing commission (IC 25-28.5-1-3).
(28) Board of podiatric medicine (IC 25-29-2-1).
(29) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(30) State psychology board (IC 25-33).
(31) Indiana real estate commission (IC 25-34.1-2).
(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(33) Respiratory care committee (IC 25-34.5).
(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(35) Speech-language pathology and audiology board (IC 25-35.6-2).

(36) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1).**

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and except as provided in section 8 of this chapter,* the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~*for the current renewal period.*~~ *or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and except as provided in section 8 of this chapter,* unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education

as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~*for the current renewal period.*~~ *or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 181. IC 25-1-11-1, AS AMENDED BY P.L.185-2007, SECTION 7, AND AS AMENDED BY P.L.200-2007, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of registration of land surveyors (IC 25-21.5-2-1).

(8) State board of funeral and cemetery service (IC 25-15-9).

(9) State board of registration for professional engineers (IC 25-31-1-3).

(10) Indiana plumbing commission (IC 25-28.5-1-3).

(11) Indiana real estate commission (IC 25-34.1-2-1).

(12) Real estate appraiser licensure **and** certification board (IC 25-34.1-8).

(13) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-2-1).

SECTION 182. IC 25-1-11-13, AS AMENDED BY P.L.197-2007,

SECTION 25, AND AS AMENDED BY P.L.209-2007, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. *(a)* The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for not more than ninety (90) days.

(b) The board may summarily suspend the license of a real estate appraiser for ninety (90) days before a final adjudication or during the appeals process if the board finds that the licensed real estate ~~*license*~~ appraiser has engaged in material and intentional misrepresentations or omissions in the preparation of *at least* three (3) ~~*or more*~~ written appraisal reports that were submitted by a person to obtain a loan. The summary suspension may be renewed ~~*upon*~~ *after* a hearing before the board. Each renewal *of a summary suspension* may ~~*not*~~ be for *not* more than ninety (90) days.

(c) Before the board may summarily suspend a license under this section, the consumer protection division of the *office of the* attorney general ~~*general's office must*~~ *shall* make a reasonable attempt to notify a practitioner of:

(1) a hearing by the board to suspend ~~a~~ **the** practitioner's license; and

(2) ~~*of*~~ information regarding the allegation against the practitioner.

The consumer protection division of the *office of the* attorney general ~~*general's office must*~~ *shall* also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to ~~*reach*~~ *notify* the practitioner is made if the consumer protection division of the *office of the* attorney general ~~*general's office*~~ attempts to ~~*reach*~~ *notify* the practitioner by telephone or facsimile at the last telephone number *or facsimile number* of the practitioner on file with the board.

SECTION 183. IC 25-2.1-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Each member of the board who is not a state employee is entitled to the minimum

salary per diem provided by ~~IC 4-10-11-2(b).~~ **IC 4-10-11-2.1(b).** The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 184. IC 25-11-1-9, AS AMENDED BY P.L.230-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Upon the filing with the secretary of state, by any interested person, of a verified written complaint which charges any licensee hereunder with a specific violation of any of the provisions of this chapter, the secretary of state shall cause an investigation of the complaint to be made. If the investigation shows probable cause for the revocation or suspension of the license, the secretary of state shall send a written notice to such licensee, stating in such notice the alleged grounds for the revocation or suspension and fixing a time and place for the hearing thereof. The hearing shall be held not less than five (5) days nor more than twenty (20) days from the time of the mailing of the notice, unless the parties consent otherwise. The secretary of state may subpoena witnesses, books, and records and may administer oaths. The licensee may appear and defend against such charges in person or by counsel. If upon such hearing the secretary of state finds the charges to be true, the secretary of state shall either revoke or suspend the license of the licensee. Suspension shall be for a time certain and in no event for a longer period than one (1) year. No license shall be issued to any person whose license has been revoked for a period of two (2) years from the date of revocation. Reapplication for a license, after revocation as provided, shall be made in the same manner as provided in this chapter for an original application for a license.

(b) Whenever it appears to the secretary of state that a person has engaged in or is about to engage in an act or practice constituting a violation of this chapter or a rule or order under this chapter, the secretary of state may investigate and may issue, with or without a prior hearing, orders and notices as the secretary of state determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement, including

interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter. In addition to all other remedies, the secretary of state may bring an action in the name of and on behalf of the state against the person and any other person participating in or about to participate in a violation of this chapter, to enjoin the person from continuing or doing an act furthering a violation of this chapter and may obtain the appointment of a receiver or conservator. Upon a proper showing by the secretary of state, the court shall enter an order **of rescission, restitution, or disgorgement** of the secretary of state ~~directing rescission, restitution, or disgorgement~~ **directed** to a person who has violated this chapter or a rule or order under this chapter.

(c) Upon the issuance of an order or a notice by the secretary of state under subsection (b), the secretary of state shall promptly notify the respondent of the following:

(1) That the order or notice has been issued.

(2) The reasons the order or notice has been issued.

(3) That upon the receipt of a written request the matter will be set for a hearing to commence not less than five (5) days and not more than twenty (20) days after the secretary of state receives the request, unless the parties consent otherwise.

If the respondent does not request a hearing and the secretary of state does not order a hearing, the order or notice will remain in effect until it is modified or vacated by the secretary of state. If a hearing is requested or ordered, the secretary of state, after giving notice of the hearing, may modify or vacate the order or extend it until final determination.

(d) In a proceeding in a circuit or superior court under this section, the secretary of state is entitled to recover all costs and expenses of investigation to which the secretary of state would be entitled in an administrative proceeding under IC 23-2-1-16(d), and the court shall include the costs in its final judgment.

(e) For the purpose of any investigation or proceeding under this chapter, the secretary of state may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the secretary of state considers material to the inquiry.

(f) Upon order of the secretary of state in any hearing, a deposition may be taken of any witness. A deposition under this chapter shall be:

(1) conducted in the manner prescribed by law for depositions in civil actions; and

(2) made returnable to the secretary of state.

(g) If any person fails to obey a subpoena, the circuit or superior court, upon application by the secretary of state, may issue to the person an order requiring the person to appear before the secretary of state to produce documentary evidence, if so ordered, or to give evidence concerning the matter under investigation.

(h) A person is not excused from:

(1) attending any hearing or testifying before the secretary of state; or

(2) producing any document or record;

in obedience to a subpoena of the secretary of state, or in any proceeding instituted by the secretary of state, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person may not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing about which the person is compelled, after validly claiming the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise.

SECTION 185. IC 25-15-9-18, AS AMENDED BY P.L.102-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition and interment of human remains:

(1) An individual who possesses a health care power of attorney of the decedent, unless the power of attorney prohibits the individual from making plans for the disposition of the decedent's body.

(2) The individual who was the spouse of the decedent at the time of the decedent's death.

(3) The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the

licensed funeral director or licensed funeral home receives a written objection from another adult child.

(4) The decedent's surviving parent. If the decedent is survived by both parents, either parent has the authority unless the licensed funeral director or licensed funeral home receives a written objection from the other parent.

(5) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree survives, any person of that degree has the authority unless the licensed funeral director or licensed funeral home receives a written objection from one (1) or more persons of the same degree.

(6) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following: ~~may serve as the authorizing agent:~~

(A) If none of the persons identified in subdivisions (1) through (5) is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition and internment of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the **cemetery owner or** crematory authority of the determination ~~of the person referred to in~~ **under** subsection (b)(2).

SECTION 186. IC 25-21.8-4-2, AS ADDED BY P.L.200-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An individual who applies for certification as a massage therapist must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has a high school diploma or the equivalent of a high school diploma;

(C) has successfully completed a massage therapy school or program that:

(i) requires at least five hundred (500) hours of supervised classroom and hands on instruction on massage therapy;

(ii) is in good standing with a state, regional, or national agency of government charged with regulating massage therapy schools or programs; and

(iii) is accredited by the Indiana commission on proprietary education established by ~~IC 20-12-76-11~~ **IC 21-17-2-1** or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and

(D) has taken and passed a certification examination approved by the board.

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. The board shall deny an application for certification if the applicant:

(A) has been convicted of:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) is a registered sex offender.

(3) Verify the information submitted on the application form.

(4) Pay fees established by the board.

SECTION 187. IC 25-23.5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Each member of the committee who is not a state employee is entitled to the minimum

salary per diem provided by ~~IC 4-10-11-2(b).~~ **IC 4-10-11-2.1(b).** Each member of the committee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

SECTION 188. IC 25-23.6-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by ~~IC 4-10-11-2(b).~~ **IC 4-10-11-2.1(b).** Each member of the board is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

SECTION 189. IC 25-27.5-2-11, AS AMENDED BY P.L.90-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. "Physician designee" means a physician:

(1) who:

(A) works **in;** or

(B) is trained in;

the same practice area as the practice area of the supervising physician; **and**

(2) to whom responsibility for the supervision of a physician assistant is temporarily designated when the supervising physician is unavailable.

SECTION 190. IC 25-27.5-2-14, AS AMENDED BY P.L.90-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) "Supervision" means that ~~the supervising physician or the physician designee accepting responsibility for the physician assistant meets either of~~ the ~~following~~ conditions **set forth in subdivision (1) or (2) are met** at all times that services are rendered or tasks are performed by the physician assistant:

(1) The supervising physician or the physician designee is physically present at the location at which services are rendered or tasks are performed by the physician assistant.

(2) **Both of the following apply:**

(A) The supervising physician or the physician designee ~~(A)~~

is immediately available for consultation. ~~and~~

(B) ~~is~~ Either:

(i) **the supervising physician or the physician designee is** in the county of, or a contiguous county to, the onsite location in which services are rendered or tasks are performed by the physician assistant; or

(ii) the physician or physician assistant is practicing at a hospital or health facility, or traveling to or from the hospital or health facility.

(b) The term includes the use of protocols, guidelines, and standing orders developed or approved by the supervising physician.

SECTION 191. IC 25-27.5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by ~~IC 4-10-11-2(b).~~ **IC 4-10-11-2.1(b).** The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 192. IC 25-27.5-4-5, AS AMENDED BY P.L.90-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A license issued by the committee expires on a date established by the Indiana professional licensing agency under IC 25-1-5-4 in the next even-numbered year following the year in which the ~~certificate~~ **license** was issued.

(b) An individual may renew a license by paying a renewal fee on or before the expiration date of the license.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid and must be returned to the committee.

SECTION 193. IC 25-27.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The committee shall reinstate an invalid ~~certificate~~ **license** up to three (3) years after the expiration date of the ~~certificate~~ **license** if the individual holding the invalid ~~certificate~~ **license** meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a

~~certificate~~ **license** expired, the individual holding the ~~certificate~~ **license** may renew the ~~certificate~~ **license** by satisfying the requirements for renewal established by the board and meeting the requirements under IC 25-1-8-6.

SECTION 194. IC 25-27.5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If an individual surrenders a ~~certificate~~ **license** to the committee, the committee may reinstate the ~~certificate~~ **license** upon written request by the individual.

(b) If the committee reinstates a ~~certificate,~~ **license,** the committee may impose conditions on the ~~certificate~~ **license** appropriate to the reinstatement.

(c) An individual may not surrender a ~~certificate~~ **license** without written approval by the committee if a disciplinary proceeding under this article is pending against the individual.

SECTION 195. IC 25-27.5-7-1, AS AMENDED BY P.L.90-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. An individual may not:

(1) profess to be a physician assistant;

(2) use the title "physician assistant", including the use of the title by a physician who is not licensed under IC 25-22.5; or

(3) use the initials "P.A." or any other words, letters, abbreviations, or insignia indicating or implying that the individual is a physician assistant ~~certified~~ **licensed** under this article;

unless the individual is licensed under this article. However, use of the initials "PA" by a public accountant who is authorized to use the initials "PA" by IC 25-2.1-12-6 is not a violation of this section.

SECTION 196. IC 25-30-1-2, AS AMENDED BY P.L.185-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(1) "Person" means an individual, a firm, a company, an association, an organization, a partnership, or a corporation.

(2) "Licensee" means a person licensed under this chapter.

(3) "Private investigator firm" means the business of:

(A) making, for hire or reward, investigation or investigations for the purpose of obtaining information with reference to:

(i) a crime against the state or wrongs done or threatened;

(ii) the habits, conduct, movements, whereabouts, association, transactions, reputation, or character of a person;

(iii) credibility of witnesses or other persons;

(iv) the location or recovery of lost, abandoned, unclaimed, or stolen property;

(v) the causes, origin, or responsibility for fires or accidents or injuries to real or personal property; or

(vi) the truth or falsity of a statement or representation;

(B) securing, for hire or reward, evidence to be used for authorized investigation committees or boards of award or arbitration or in the trial of civil or criminal cases; or

(C) providing, for hire or reward, undercover investigators to detect and prevent fraud and theft in the workplace or elsewhere.

(4) "Board" refers to the private investigator and security guard **licensing** board established under section 5.2 of this chapter.

(5) "Licensing agency" refers to the Indiana professional licensing agency established under IC 25-1-5-3.

(6) "Business entity" means a firm, a company, an association, an organization, a partnership, or a corporation.

SECTION 197. IC 25-30-1-8, AS AMENDED BY P.L.185-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board may not issue a private investigator firm license to an individual unless the individual:

(1) is at least twenty-one (21) years of age; and

(2) demonstrates the necessary knowledge and skills, as determined by the board, to conduct a private investigator firm competently.

(b) The board may not issue a private investigator firm license to a business entity unless:

(1) one (1) officer, in the case of a corporation; or

(2) one (1) partner, in the case of a partnership;

meets the personal qualifications as set out in subsection (a), unless otherwise provided.

(c) The board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant or, if the applicant is a business entity, ~~that~~ the officer or partner **referred to** in subsection

(b):

(1) has not committed an act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this chapter;

(2) has not been convicted of a:

(A) felony; or

(B) misdemeanor that has a direct bearing upon the applicant's ability to practice competently;

(3) has not been refused a license under this chapter or had a license revoked;

(4) has not, while unlicensed, committed or aided and abetted **in the** commission of an act for which a license is required by this chapter;

(5) is not on probation or parole; ~~or~~ **and**

(6) is not being sought under an active warrant against the applicant, officer, or partner.

SECTION 198. IC 25-30-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The proceedings under this chapter shall be conducted in accordance with IC 4-21.5. ~~and~~ **In conducting proceedings under this chapter,** the board has all powers granted under IC 4-21.5.

(b) The board may impose sanctions against a licensee under IC 25-1-11 if the board determines that the licensee has done any of the following:

(1) Forcibly and without the consent of the person in lawful possession, entered a building or portion of a building.

(2) Impersonated, ~~or~~ permitted **an employee to impersonate,** or aided and abetted an employee ~~to impersonate.~~ **in impersonating:**

(A) a law enforcement officer;

(B) an employee of the United States government;

(C) an employee of the state; or

(D) an employee of a political subdivision of the state.

(3) During the period between the expiration of a license for failure to renew within the time fixed by this chapter and the reinstatement of the license, ~~has~~ committed or permitted an employee to commit an act that would be cause for suspension or revocation of a license or grounds for the denial ~~for~~ **of** the application for a license.

(4) Committed an act that is ~~ground~~ **grounds** for a denial ~~for~~ **of** an application for a license under this chapter.

SECTION 199. IC 25-30-1.3-6, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For purposes of this section, "industrial plant" means a factory, business, or concern that is engaged primarily in the manufacture or assembly of goods or the processing of raw materials, or both.

(b) This chapter does not apply to the following:

(1) A law enforcement officer of the United States, a state, or a political subdivision of a state to the extent that the officer is engaged in the performance of the officer's official duties.

(2) An employee to the extent that the employee is hired for the purpose of guarding and protecting the properties of railroad companies and is licensed as a railroad policeman under IC 8-3-17, to the extent that the employee is engaged in the performance of the employee's official duties.

(3) The owner of an industrial plant or ~~the~~ **an** employee of ~~an~~ **the** owner of an industrial plant to the extent that the owner or the employee is hiring a plant security guard for the owner's industrial plant.

(4) A retail merchant or an employee of the retail merchant to the extent that the retail merchant or the employee is hiring a security guard for the retail merchant's retail establishment.

SECTION 200. IC 25-30-1.3-9, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board may not issue a security guard agency license to an individual unless the individual:

(1) is at least twenty-one (21) years of age; and

(2) demonstrates the necessary knowledge and skills, as determined by the board, to conduct a security guard agency competently.

(b) The board may not issue a security guard agency license to a business entity unless:

(1) one (1) officer, in the case of a corporation; or

(2) one (1) partner, in the case of a partnership;

meets the personal qualifications as set out in subsection (a), unless otherwise provided.

(c) The board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant or, if **the applicant is** a business entity, ~~that~~ the officer or partner **referred to** in subsection (b):

(1) has not committed an act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this chapter;

(2) has not been convicted of: ~~a:~~

(A) **a** felony; or

(B) **a** misdemeanor that has a direct bearing upon the applicant's ability to practice competently;

(3) has not been refused a license under this chapter or had a license revoked;

(4) has not, while unlicensed, committed or aided and abetted commission of an act for which a license is required by this chapter;

(5) is not on probation or parole; ~~or~~ **and**

(6) is not being sought under an active warrant against the applicant, officer, or partner.

SECTION 201. IC 25-30-1.3-19, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The proceedings under this chapter shall be conducted in accordance with IC 4-21.5. ~~and~~ **In conducting proceedings under this chapter,** the board has all powers granted under IC 4-21.5.

(b) The board may impose sanctions against a licensee under IC 25-1-11 if the board determines that the licensee has done any of the following:

(1) Forcibly and without the consent of the person in lawful possession, entered a building or part of a building.

(2) Impersonated, ~~or~~ permitted **an employee to impersonate,** or aided and abetted an employee ~~to impersonate,~~ **in impersonating:**

(A) a law enforcement officer;

(B) an employee of the United States government;

(C) an employee of the state; or

(D) an employee of a political subdivision of the state.

(3) During the period between the expiration of a license for failure to renew within the time fixed by this chapter and the

reinstatement of the license, ~~has~~ committed or permitted an employee to commit an act that would be cause for suspension or revocation of a license or grounds for the denial ~~for~~ **of** the application for a license.

(4) Committed an act that is ~~ground~~ **grounds** for a denial ~~for~~ **of** an application for a license under this chapter.

SECTION 202. IC 25-30-1.3-23, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) A person who recklessly, knowingly, or intentionally violates this chapter commits a Class A misdemeanor.

(b) A person who is not exempt under section 6 of this chapter, who does not have a security guard agency license, and who recklessly, knowingly, or intentionally:

(1) engages in business as a security guard agency;

(2) solicits or advertises for business as a security guard agency; or

(3) in any way represents to be a security guard agency;

commits a Class A misdemeanor.

(c) In addition to any other penalty imposed on the person, the court shall fine a person **convicted** of an offense under subsection (b) the amount of compensation earned by the person in the commission of the offense. Notwithstanding IC 35-50-3-2, the total fine imposed under this section may exceed ten thousand dollars ($10,000) if necessary to comply with this subsection.

(d) Each transaction under subsection (b) constitutes a separate offense.

(e) A complaint for a violation of this chapter or for an injunction under section 24 of this chapter is sufficient if the complaint alleges that a person or business entity on a specific day in a specific county:

(1) engaged in business as a security guard agency;

(2) solicited or advertised for business as a security guard agency; or

(3) represented to be a security guard agency;

without a security guard agency license.

(f) A person who recklessly, knowingly, or intentionally fails or refuses to surrender a security guard agency license issued under this chapter when the license is revoked by action of the board commits a Class A misdemeanor.

SECTION 203. IC 25-34.1-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by ~~IC 4-10-11-2(b).~~ **IC 4-10-11-2.1(b).** Each member of the board is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

SECTION 204. IC 25-34.1-8-12, AS AMENDED BY P.L.57-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A person who:

(1) performs:

(A) the acts of a licensed real estate appraiser without a license; or

(B) the acts of a certified real estate appraiser without a certificate; or

(2) conducts or solicits or accepts enrollment of students for a course ~~as prescribed in IC 25-34.1-3-10~~ without course approval as required by section 13 of this chapter;

commits a Class B infraction. When a judgment is entered for an offense under this section, the court shall add to any fine imposed the amount of any fee or other compensation earned in the commission of the offense. Each transaction constitutes a separate offense.

(b) In all actions for the collection of a fee or other compensation for performing acts regulated by this article, a party seeking relief must allege and prove that at the time the cause of action arose the party was not in violation of this section.

(c) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state of Indiana to enjoin a person from violating this section.

(d) In charging any person in a complaint for a judgment or an injunction for the violation of this section, it is sufficient, without averring any further or more particular facts, to charge that the person upon a certain day and in a certain county:

(1) acted as:

(A) a certified real estate appraiser without a certificate; or

(B) a licensed real estate appraiser without a license; or

(2) conducted, or solicited or accepted enrollment of students for a real estate appraiser course without course approval.

(e) Each enforcement procedure established in this section is supplemental to other enforcement procedures established in this section.

SECTION 205. IC 25-37.5-1-1, AS AMENDED BY P.L.2-2007, SECTION 349, AND AS AMENDED BY P.L.170-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of copper, copper alloy, brass, aluminum, or aluminum alloy that is readily used or useable:

(1) by a public utility, **a** railroad, **a** county, city, or state highway department, **a** public or private school, or ~~an~~ *a postsecondary educational* institution; ~~*of higher education.*~~ *or*

(2) on residential or commercial property.

(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk carts or trucks.

(c) As used in this chapter, "purchase" means acquiring a valuable metal product or products by a valuable metal dealer in a single transaction of one hundred dollars ($100) or more for a consideration, but does not include purchases between scrap metal processing facilities (as defined in ~~IC 8-12-1-3(d)).~~ **IC 8-23-1-36).**

SECTION 206. IC 25-37.5-1-3, AS AMENDED BY P.L.2-2007, SECTION 351, AND AS AMENDED BY P.L.170-2007, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The superintendent of the state police department may adopt rules under IC 4-22-2 as may be necessary to administer and enforce the provisions and intent of this chapter. The superintendent shall also prepare and distribute a list to each valuable metal dealer describing:

(1) valuable metal products of interest to public utilities, railroads,

county, city, or state highway departments, public or private schools, or ~~an~~ *a postsecondary educational* institution; ~~*of higher education.*~~ *and*

(2) valuable metal products of interest for use on residential or commercial property.

SECTION 207. IC 27-1-3-15, AS AMENDED BY P.L.173-2007, SECTION 6, AND AS AMENDED BY P.L.234-2007, SECTION 188, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Except as provided in ~~subsection~~ **subsections** *(f)* **and** *(h),* the commissioner shall collect the following filing fees:

Document	Fee
Articles of incorporation	$ 350
Amendment of articles of incorporation	$ 10
Filing of annual statement and consolidated statement	$ 100
Annual renewal of company license fee	$ 50
Withdrawal of certificate of authority	$ 25
Certified statement of condition	$ 5
Any other document required to be filed by this article	$ 25

The commissioner shall deposit fees collected under this subsection into the department of insurance fund established by section 28 of this chapter.

(b) The commissioner shall collect a fee of ten dollars ($10) each time process is served on the commissioner under this title.

(c) The commissioner shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

Per page for copying	As determined by the commissioner but not to exceed actual cost
For the certificate	$10

(d) Each domestic and foreign insurer and each health maintenance

organization shall remit annually to the commissioner for deposit into the department of insurance fund established by section 28 of this chapter one thousand dollars ($1,000) as an internal audit fee. All assessment insurers, farm mutuals, and fraternal benefit societies shall remit to the commissioner for deposit into the department of insurance fund two hundred fifty dollars ($250) annually as an internal audit fee.

(e) Beginning July 1, 1994, each insurer shall remit to the commissioner for deposit into the department of insurance fund established by section 28 of this chapter a fee of thirty-five dollars ($35) for each policy, rider, rule, rate, or endorsement filed with the state, including subsequent filings. Except as provided in subsection (f), each policy, rider, rule, rate, or endorsement that is filed as part of a particular product filing or in association with a particular product filing is an individual filing subject to the fee under this subsection. However, the total amount of fees paid under this subsection by each insurer for a particular product filing may not exceed one thousand dollars ($1,000).

(f) Beginning July 1, 2009, a policy, rider, rule, rate, or endorsement that is filed as part of a particular product filing or in association with a particular product filing for a commercial product described in:

(1) Class 2(b), Class 2(c), Class 2(d), Class 2(e), Class 2(f), Class 2(g), Class 2(h), Class 2(i), Class 2(j), Class 2(k), Class 2(l), or Class 2(m) of IC 27-1-5-1; or

(2) Class 3 of IC 27-1-5-1;

is considered to be part of a single filing for which the insurer is subject only to one (1) thirty-five dollar ($35) fee under subsection (e).

(g) The commissioner shall pay into the state general fund by the end of each calendar month the amounts collected during that month under subsections (b) and (c).

(h) The commissioner may not collect fees for quarterly statements filed under IC 27-1-20-33.

(i) The commissioner may adopt rules under IC 4-22-2 to provide for the accrual and quarterly billing of fees under this section.

SECTION 208. IC 27-1-13-16, AS ADDED BY P.L.173-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) This section applies to a policy of insurance that:

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

(A) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) An insurer that reduces, restricts, or removes, through a rider or an endorsement, coverage provided by a policy of insurance must provide to the named insured written notice, through the United States mail or by electronic means, of the changes to the policy. The written notice required by this ~~subdivision~~ **subsection** must:

(1) be part of a document that is separate from the rider or endorsement;

(2) be printed in at least 12 point type, 1 point leaded;

(3) consist of text that achieves a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner as provided by IC 27-1-26-6;

(4) identify the forms, provisions, or endorsements that are changed;

(5) indicate the name and contact information of:

(A) the servicing insurance producer for the policy, if any; and

(B) the insurer;

whom the named insured may contact for assistance with any questions concerning the policy changes;

(6) indicate whether a premium adjustment will result from the policy changes; and

(7) set forth any options available to the named insured to repurchase the coverage that has been reduced, restricted, or removed.

(c) If the notice required under subsection (b) is sent through the United States mail, the outside of the envelope used to mail the notice must contain the following statement in at least 14 point type: "Coverage has been reduced, restricted, or removed from your policy.".

(d) The insurer bears the burden to prove that notice was sent to the named insured in accordance with this section. If the notice is sent through the United States mail, proof of mailing as described in

IC 27-7-6-7 is sufficient proof of the notice.

(e) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 209. IC 27-1-15.6-7.3, AS ADDED BY P.L.173-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.3. (a) The commissioner may design or have designed an insurance producer certificate suitable for framing and display.

(b) Upon request of an insurance producer, the commissioner may issue a certificate described in subsection (a).

(c) The commissioner may impose and collect a reasonable fee for a certificate issued under subsection (b). The commissioner shall deposit fees collected under this subsection into the insurance education scholarship fund established by ~~IC 20-12-22.3-5.~~ **IC 21-12-9-5.**

(d) The commissioner shall establish guidelines to implement this section.

SECTION 210. IC 27-1-40-1, AS ADDED BY P.L.173-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "trusteed surplus" means the aggregate value of a United States branch's:

(1) surplus and reserve funds required under IC 27-1-6; and

(2) trust assets described in ~~section 5~~ **section 4** of this chapter;

plus investment income accrued on the items described in subdivisions (1) and (2) if the investment income is collected by the state for the trustees, less the aggregate net amount of all of the United States branch's reserves and other liabilities in the United States, as determined under section 6 of this chapter.

SECTION 211. IC 27-4-1-4, AS AMENDED BY P.L.131-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any

person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract. However, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever. However, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair

discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not

specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the

performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or

physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) **(expired July 1, 2007, and removed)** or IC 27-8-5-19.2 **(expired July 1, 2007, and repealed).**

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 212. IC 27-8-5-2.5, AS AMENDED BY P.L.173-2007,

SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, the term "policy of accident and sickness insurance" does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy.

(5) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(6) A policy that provides indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(7) Worker's compensation or similar insurance.

(8) A student health plan.

(9) A supplemental plan that always pays in addition to other coverage.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare supplement policy.

(b) The benefits provided by:

(1) an individual policy of accident and sickness insurance; or

(2) a certificate of coverage that is issued under a nonemployer based association group policy of accident and sickness insurance to an individual who is a resident of Indiana;

may not be excluded, limited, or denied for more than twelve (12) months after the effective date of the coverage because of a preexisting condition of the individual.

(c) An individual policy of accident and sickness insurance or a certificate of coverage described in subsection (b) may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

(1) a condition that would have caused an ordinarily prudent

person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of the plan;

(2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of the plan; or

(3) a pregnancy existing on the effective date of the plan.

(d) An insurer shall reduce the period allowed for a preexisting condition exclusion described in subsection (b) by the amount of time the individual has continuously served under a preexisting condition clause for a policy of accident and sickness insurance issued under IC 27-8-15 if the individual applies for a policy under this chapter not more than thirty (30) days after coverage under a policy of accident and sickness insurance issued under IC 27-8-15 expires.

~~(e) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsections (b) and (c), an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and complications directly related to the specified condition if:~~

~~(1) the period for which the exemption would be in effect does not exceed two (2) years; and~~

~~(2) all of the following conditions are met:~~

~~(A) The insurer provides to the applicant before issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition, including a specific description of each condition, complication, service, and treatment for which coverage is being waived.~~

~~(B) The:~~

~~(i) offer of coverage; and~~

~~(ii) policy;~~

~~include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and specifying each related condition, complication, service, and treatment for which coverage is waived.~~

~~(C) The:~~

~~(i) offer of coverage; and~~

~~(ii) policy;~~

~~do not include more than two (2) waivers per individual.~~

~~(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.~~

~~(E) The insurer agrees to:~~

~~(i) review the underwriting basis for the waiver upon request one (1) time per year; and~~

~~(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.~~

~~(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.~~

~~(G) The waiver of coverage does not apply to coverage required under state law.~~

~~(H) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.~~

~~The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage and in the policy under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1. This subsection expires July 1, 2007.~~

~~(f) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer shall not, on the basis of a waiver contained in a policy as provided in subsection (e), deny coverage for any condition, complication, service, or treatment that is not specified as required in the:~~

~~(1) written notice under subsection (e)(2)(A); and~~

~~(2) offer of coverage and policy under subsection (e)(2)(B).~~

~~This subsection expires July 1, 2007.~~

~~(g) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An individual who is covered under a policy that includes a waiver under subsection (e) may directly appeal a denial of coverage based on the waiver by filing a request for an~~

~~external grievance review under IC 27-8-29 without pursuing a grievance under IC 27-8-28. This subsection expires July 1, 2007.~~

~~(h) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsection (e), an individual policy of accident and sickness insurance may not contain a waiver of coverage for:~~

~~(1) a mental health condition; or~~

~~(2) a developmental disability.~~

~~This subsection expires July 1, 2007.~~

~~(i) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A waiver under this section may be applied to a policy of accident and sickness insurance only at the time the policy is issued. This subsection expires July 1, 2007.~~

~~(j) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer or insurance producer shall not use this section to circumvent the guaranteed access and availability provisions of this chapter, IC 27-8-15, or the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). This subsection expires July 1, 2007.~~

~~(k) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A pattern or practice of violations of subsections (e) through (j) is an unfair method of competition or an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4. This subsection expires July 1, 2007.~~

SECTION 213. IC 27-8-10-5.1, AS AMENDED BY P.L.211-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e) **(expired July 1, 2007, and removed),** IC 27-8-5-2.7, IC 27-8-5-19.2(e) **(expired July 1, 2007,**

and repealed), or IC 27-8-5-19.3 does not affect an individual's eligibility for an association policy under this subsection. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(d) Coverage under an association policy terminates as follows:

(1) On the first date on which an insured is no longer a resident of Indiana.

(2) On the date on which an insured requests cancellation of the association policy.

(3) On the date of the death of an insured.

(4) At the end of the policy period for which the premium has been paid.

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

(e) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

(1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(f) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(g) Except as provided in subsection (h), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (c), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(i) For purposes of this section, coverage under a health insurance

arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 214. IC 27-8-10.1-3, AS ADDED BY P.L.218-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "plan" refers to the Indiana check-up plan established by ~~IC 12-15-44-3.~~ **IC 12-15-44.2-3.**

SECTION 215. IC 27-8-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "external grievance" means the independent review under this chapter of a:

(1) grievance filed under IC 27-8-28; or

(2) denial of coverage based on a waiver described in ~~IC 27-8-5-2.5~~ **IC 27-8-5-2.5(e) (expired July 1, 2007, and removed)** or IC 27-8-5-19.2 **(expired July 1, 2007, and repealed).**

SECTION 216. IC 27-8-29-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. An insurer shall establish and maintain an external grievance procedure for the resolution of external grievances regarding:

(1) an adverse determination of appropriateness;

(2) an adverse determination of medical necessity;

(3) a determination that a proposed service is experimental or investigational; or

(4) a denial of coverage based on a waiver described in ~~IC 27-8-5-2.5~~ **IC 27-8-5-2.5(e) (expired July 1, 2007, and removed)** or IC 27-8-5-19.2 **(expired July 1, 2007, and repealed);**

made by an insurer or an agent of an insurer regarding a service proposed by the treating health care provider.

SECTION 217. IC 27-8-29-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) An external grievance procedure established under section 12 of this chapter must:

(1) allow a covered individual or a covered individual's representative to file a written request with the insurer for an external grievance review of the insurer's:

(A) appeal resolution under IC 27-8-28-17; or

(B) denial of coverage based on a waiver described in ~~IC 27-8-5-2.5~~ **IC 27-8-5-2.5(e) (expired July 1, 2007, and**

removed) or IC 27-8-5-19.2 **(expired July 1, 2007, and repealed);**

not more than forty-five (45) days after the covered individual is notified of the resolution; and

(2) provide for:

(A) an expedited external grievance review for a grievance related to an illness, a disease, a condition, an injury, or a disability if the time frame for a standard review would seriously jeopardize the covered individual's:

(i) life or health; or

(ii) ability to reach and maintain maximum function; or

(B) a standard external grievance review for a grievance not described in clause (A).

A covered individual may file not more than one (1) external grievance of an insurer's appeal resolution under this chapter.

(b) Subject to the requirements of subsection (d), when a request is filed under subsection (a), the insurer shall:

(1) select a different independent review organization for each external grievance filed under this chapter from the list of independent review organizations that are certified by the department under section 19 of this chapter; and

(2) rotate the choice of an independent review organization among all certified independent review organizations before repeating a selection.

(c) The independent review organization chosen under subsection (b) shall assign a medical review professional who is board certified in the applicable specialty for resolution of an external grievance.

(d) The independent review organization and the medical review professional conducting the external review under this chapter may not have a material professional, familial, financial, or other affiliation with any of the following:

(1) The insurer.

(2) Any officer, director, or management employee of the insurer.

(3) The health care provider or the health care provider's medical group that is proposing the service.

(4) The facility at which the service would be provided.

(5) The development or manufacture of the principal drug, device, procedure, or other therapy that is proposed for use by the treating

health care provider.

(6) The covered individual requesting the external grievance review.

However, the medical review professional may have an affiliation under which the medical review professional provides health care services to covered individuals of the insurer and may have an affiliation that is limited to staff privileges at the health facility, if the affiliation is disclosed to the covered individual and the insurer before commencing the review and neither the covered individual nor the insurer objects.

(e) A covered individual shall not pay any of the costs associated with the services of an independent review organization under this chapter. All costs must be paid by the insurer.

SECTION 218. IC 27-8-29-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An independent review organization shall:

(1) for an expedited external grievance filed under section 13(a)(2)(A) of this chapter, within three (3) business days after the external grievance is filed; or

(2) for a standard appeal filed under section 13(a)(2)(B) of this chapter, within fifteen (15) business days after the appeal is filed;

make a determination to uphold or reverse the insurer's appeal resolution under IC 27-8-28-17 based on information gathered from the covered individual or the covered individual's designee, the insurer, and the treating health care provider, and any additional information that the independent review organization considers necessary and appropriate.

(b) When making the determination under this section, the independent review organization shall apply:

(1) standards of decision making that are based on objective clinical evidence; and

(2) the terms of the covered individual's accident and sickness insurance policy.

(c) In an external grievance described in section 12(4) of this chapter, the insurer bears the burden of proving that the insurer properly denied coverage for a condition, complication, service, or treatment because the condition, complication, service, or treatment is directly related to a condition for which coverage has been waived

under ~~IC 27-8-5-2.5~~ **IC 27-8-5-2.5(e) (expired July 1, 2007, and removed)** or IC 27-8-5-19.2 **(expired July 1, 2007, and repealed).**

(d) The independent review organization shall notify the insurer and the covered individual of the determination made under this section:

(1) for an expedited external grievance filed under section 13(a)(2)(A) of this chapter, within twenty-four (24) hours after making the determination; and

(2) for a standard external grievance filed under section 13(a)(2)(B) of this chapter, within seventy-two (72) hours after making the determination.

SECTION 219. IC 28-1-12-8, AS ADDED BY P.L.202-2007, SECTION 1, AND AS ADDED BY P.L.226-2007, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Unless otherwise provided in an agreement or a trust, a bank or trust company that holds funds or property as a fiduciary may use the funds or property to purchase from the bank, the trust company, or an affiliate of the bank or trust company a product, service, or security, including an insurance product or security that is underwritten by the bank, the trust company, an affiliate of the bank or trust company, or a syndicate or selling group that includes the bank, the trust company, or an affiliate of the bank or trust company if the:

(1) purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and

(2) purchase complies with IC 30-4-3.5.

The compensation for the product, services, or security received by the bank, trust company, an affiliate of the bank or trust company, or a syndicate or selling group that includes the bank, the trust company, or an affiliate of the bank or trust company may be in addition to the compensation that the bank or trust company is otherwise entitled to from the fiduciary account.

(b) A bank or trust company that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the bank or trust company any purchase or sale made by the bank or trust company during the year. The disclosure must be in writing or an electronic format and include the following:

(1) Any capacity in which the bank, the trust company, or an affiliate of the bank or trust company acts for:

(A) the issuer of the securities; or

(B) the provider of the products or services;

that is the subject of the purchase or sale.

(2) A statement that the bank, the trust company, or an affiliate of the bank or trust company has an interest in the subject of the purchase or sale, if applicable.

(3) The rate and method by which that compensation was determined.

(4) The name, telephone number, street address, and mailing address of an officer of the bank or trust company who may be contacted for further information.

(5) A notice that the bank's or trust company's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the bank or trust company that seeks the consent. If the representative of the incapacitated grantor is the bank or trust company that seeks the consent to a

purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the bank or trust company that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the bank or trust company shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the bank or trust company.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the bank or trust company that seeks the consent. If the guardian of the incapacitated principal is the bank or trust company that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by ~~*this clause.*~~ *subdivision (1)(A)*. However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1)

individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by ~~*this subdivision.*~~ *subdivision (1)(A).* However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) are not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

SECTION 220. IC 28-1-29-8, AS AMENDED BY P.L.217-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A licensee shall deliver to every contract debtor, at the time the contract is made, a copy of the contract, showing the:

(1) date executed;

(2) rate of charge the licensee will impose;

(3) initial set up fee;

(4) cancellation fee;

(5) amount of debts claimed by the contract debtor to be due the contract debtor's creditors;

(6) total amount of fee to be assessed by the licensee, including the initial set up fee, but excluding the cancellation fee; and

(7) total amount of debt to be repaid under the contract;

and shall immediately notify all creditors of the licensee's and debtor's relationship. The contract shall specify the schedule of payments from the debtor under the debt program.

(b) A ~~license~~ **licensee** may take no fee unless a debt program or a

finance program, or both, agreed upon by the licensee and the contract debtor, has been arranged. All creditors must be notified of the debtor's and licensee's relationship. Acceptance of a program payment constitutes agreement by the creditor to the program.

(c) A licensee shall give to the contract debtor a dated receipt for each payment, at the time of the payment, unless the payment is made by check, money order, or direct deposit.

(d) A licensee shall, upon cancellation by a contract debtor of the contract, notify immediately in writing all creditors of contract debtor.

(e) A licensee shall maintain in the licensee's business such books, accounts, and records as will enable the department or the attorney general to determine whether ~~such license~~ **the licensee** is complying with this chapter. Such books, accounts, and records shall be preserved for at least three (3) years after making the final entry of any contract recorded therein.

(f) A licensee may not, except as provided in subsection (g) receive a fee from the contract debtor for services in excess of fifteen percent (15%) of the amount the debtor agrees to pay through the licensee, divided into equal monthly payments over the term of the contract. The total monthly amount of fees paid by the contract debtor to the licensee plus the fair share fees paid by the contract debtor's creditors to the licensee shall not exceed twenty percent (20%) of the monthly amount the debtor agrees to pay through the licensee. The accrual method of accounting shall apply to the creditor's fair share fees received by the licensee. The program fee may be charged for any one (1) month or part of a month. As a portion of the total fees and charges stated in the contract, the licensee may require the debtor to pay a maximum initial payment of fifty dollars ($50). The initial payment must be deducted from the total contract fees and charges to determine the monthly amortizable amount for subsequent fees. Unless approved by the department, the licensee may not retain in the debtor's trust account, for charges, an amount greater than one (1) month's fee plus the close-out fee. Any fee charged by the licensee to the debtor under this section for services rendered by the licensee, other than the amount pursuant to subsection (g), is not considered a debt owed by the debtor to the licensee.

(g) Upon:

(1) cancellation of the contract by a contract debtor; or

(2) termination of payments by a contract debtor;

a licensee may not withhold for the licensee's own benefit, in addition to the amounts specified in subsection (f), more than one hundred dollars ($100), which may be accrued as a close-out fee. The licensee may not charge the contract debtor more than one (1) set up fee or cancellation fee, or both, unless the contract debtor leaves the services of the licensee for more than six (6) months.

(h) A licensee may not enter into a contract with a debtor unless a thorough, written budget analysis of the debtor indicates that the debtor can reasonably meet the payments required under a proposed debt program or finance program.

(i) A licensee may not enter into a contract with a contract debtor for a period longer than twenty-four (24) months.

(j) A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services;

from the location in question is not contrary to the best interests of the licensee's contract debtors.

(k) A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors.

SECTION 221. IC 28-5-1-3, AS AMENDED BY P.L.213-2007, SECTION 56, AND BY P.L.217-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter and unless a different meaning appears from the context:

(a) The term "capital and surplus" or "unimpaired capital and unimpaired surplus" has the meaning set forth in 12 CFR 32.2.

(b) The term "company" shall mean and include any corporation to which this chapter is applicable.

(c) The term "department" means the department of financial institutions of the state of Indiana. ~~payable. or~~

(d) The department is hereby authorized to approve the issue of capital and investment notes and capital debentures by any company to create capital and surplus, but no such notes and debentures shall be authorized or approved by the department unless such notes and debentures shall, by their terms, provide that the debt, including all accrued and unpaid interest, evidenced thereby shall be subordinate, in order of priority on liquidation, to all of the obligations of the company to the holders of its installment and fully paid certificates of indebtedness or investment and creditors other than such creditors and holders who have expressly agreed otherwise and other than creditors who are such by reason of the ownership of such notes or debentures which the department is authorized to approve by this section.

SECTION 222. IC 28-6.1-6-26, AS ADDED BY P.L.202-2007, SECTION 2, AND AS ADDED BY P.L.226-2007, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) Unless otherwise provided in an agreement or a trust, a savings bank that holds funds or property as a fiduciary may use the funds or property to purchase from the savings bank or an affiliate of the savings bank a product, service, or security, including an insurance product or security that is underwritten by the savings bank, an affiliate of the savings bank, or a syndicate or selling group that includes the savings bank or an affiliate of the savings bank, if:

(1) the purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and

(2) the purchase complies with IC 30-4-3.5.

The compensation for the product, service, or security received by the savings bank or an affiliate of the savings bank or a syndicate or selling group that includes the savings bank, or an affiliate of the savings bank, may be in addition to the compensation that the savings bank is otherwise entitled to from the fiduciary account.

(b) A savings bank that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the savings bank any purchase or sale made by the savings bank during the year. The disclosure must be in writing or an electronic format and include the following:

(1) Any capacity in which the savings bank or an affiliate of the savings bank acts for:

(A) the issuer of the securities; or

(B) the provider of the products or services;

that is the subject of the purchase or sale.

(2) A statement that the savings bank or an affiliate of the savings bank has an interest in the subject of the purchase or sale, if applicable.

(3) The rate and method by which that compensation was determined.

(4) The name, telephone number, street address, and mailing address of an officer of the savings bank who may be contacted for further information.

(5) A notice that the savings bank's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the savings bank that seeks the consent. If the representative of the incapacitated grantor is the savings bank that seeks the consent to a purchase or sale under

subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the savings bank that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the savings bank shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the savings bank.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the savings bank that seeks the consent. If the guardian of the incapacitated principal is the savings bank that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by ~~this~~ clause **(A).** However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were

terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by ~~*this subdivision.*~~ *subdivision (1)(A).* However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) ~~*is*~~ *are* not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

SECTION 223. IC 28-7-5-4, AS AMENDED BY P.L.217-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the department and must include all information required by the department. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

(1) the nature of the other business;

(2) the name under which the other business operates;

(3) the address of the principal office of the other business;

(4) the name and address of the business's resident agent in Indiana; and

(5) any other information the director may require.

(b) An application submitted under this section must indicate

whether:

(1) the applicant, at the time of the application, is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(2) **the applicant** has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance with this section may include:

(1) criminal background checks, including a national criminal history check by the Federal Bureau of Investigation;

(2) credit histories; and

(3) other background checks considered necessary by the director.

SECTION 224. IC 28-8-4-25, AS AMENDED BY P.L.217-2007, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. In addition to the items listed in section 24 of this chapter, if an applicant is a corporation, the applicant must provide the following items and information relating to the applicant's corporate structure:

(1) State of incorporation.

(2) Date of incorporation.

(3) A certificate from the state in which the applicant was incorporated stating that the corporation is in good standing.

(4) A description of the corporate structure of the applicant, including the following:

(A) The identity of the parent of the applicant.

(B) The identity of each subsidiary of the applicant.

(C) The names of the stock exchanges in which the applicant, the parent, and the subsidiaries are publicly traded.

(5) The:

(A) name;

(B) business address;

(C) residence address; and

(D) employment history;

for each executive officer, key shareholder, and officer or manager who will be in charge of the applicant's licensed activities.

(6) The:

(A) history of material litigation; and

(B) ~~the~~ history of criminal indictments, convictions, and guilty or nolo contendere pleas for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

for each executive officer, key shareholder, and director of the applicant.

(7) Except as provided in subdivision (8), copies of the applicant's audited financial statements for the current year and, if available, for the preceding two (2) years, including a:

(A) balance sheet;

(B) statement of income or loss;

(C) statement of changes in shareholder equity; and

(D) statement of changes in financial position.

(8) If the applicant is a wholly owned subsidiary of:

(A) a corporation publicly traded in the United States, financial statements for the current year or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the preceding three (3) years may be submitted with the applicant's unaudited financial statements; or

(B) a corporation publicly traded outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted with the applicant's unaudited financial statements.

(9) Copies of filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, not more than one (1) year before the date of filing of the application.

SECTION 225. IC 28-8-4-26, AS AMENDED BY P.L.217-2007, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 26. In addition to the items listed in section 24 of this chapter, if the applicant is not a corporation, the applicant must provide the following:

(1) The:

(A) name;

(B) residence address;

(C) business address;

(D) federal tax returns with schedules for the three (3) years preceding the date of the application; and

(E) employment history;

for each principal and each person who will be in charge of the applicant's licensed activities.

(2) Evidence that the applicant is registered or qualified to do business in Indiana.

(3) The date on which the applicant registered or qualified to do business in Indiana.

(4) The:

(A) history of material litigation; and

(B) ~~the~~ history of criminal indictments, convictions, and guilty and nolo contendere pleas for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

for each individual having an ownership interest in the applicant, and each individual who exercises supervisory responsibility with respect to the applicant's activities.

(5) Copies of the applicant's audited financial statements for the current year and, if available, for the preceding two (2) years, including a:

(A) balance sheet;

(B) statement of income or loss; and

(C) statement of changes in financial position.

SECTION 226. IC 29-2-16.1-7, AS ADDED BY P.L.147-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as otherwise provided in subsection (g) and subject to subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's

body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 5 of this chapter is not a refusal and does not bar the person specified in section 3 or ~~section~~ 8 **of this chapter** from making an anatomical gift of the donor's body or part under section 4 or 9 of this chapter.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter, another person may not make, amend, or revoke the gift of the donor's body or part under section 9 of this chapter.

(d) A revocation of an anatomical gift of a donor's body or part under section 5 of this chapter by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 4 or 9 of this chapter.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part for one (1) or more of the purposes set forth in section 3 of this chapter is not a limitation on the making of an anatomical gift of the part for any of the other purposes of the donor or any other person under section 4 or 9 of this chapter.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

SECTION 227. IC 30-2-12-5, AS AMENDED BY P.L.2-2007, SECTION 356, AND AS AMENDED BY P.L.226-2007, SECTION 11, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 5. As used in this chapter, "institution" means any of the following:

~~*(1) An approved postsecondary educational institution (as defined in IC 21-7-13-6(a)) and its related foundations.*~~

~~(2) An organization that:~~

~~(A) is an exempt organization under Section 501(c)(3) of the Internal Revenue Code;~~

~~(B) has an endowment fund with a fair market value of at least ten million dollars ($10,000,000); and~~

~~(C) is not a religious organization.~~

~~(3) A community foundation or trust.~~

(1) A person, other than an individual, that is organized and operated exclusively for charitable purposes.

(2) The state, including any agency or instrumentality of the state, or a unit of local government to the extent that the state or unit holds funds exclusively for charitable purposes.

(3) A trust that has only charitable interests, including a trust:

(A) that previously had both charitable and noncharitable interests; and

(B) the noncharitable interests of which were previously terminated.

SECTION 228. IC 30-4-3-11, AS AMENDED BY P.L.202-2007, SECTION 4, AND AS AMENDED BY P.L.226-2007, SECTION 23, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The trustee is accountable to the beneficiary for the trust estate.

(b) If the trustee commits a breach of trust, ~~he~~ **the trustee** is liable to the beneficiary for:

(1) any loss or depreciation in the value of the trust property as a result of the breach;

(2) any profit made by the trustee through the breach;

(3) any reasonable profit which would have accrued on the trust property in the absence of a breach; and

(4) reasonable attorney's fees incurred by the beneficiary in bringing an action on the breach.

(c) In the absence of a breach of trust, the trustee has no liability to the beneficiary either for any loss or depreciation in value of the trust property or for a failure to make a profit. However, if:

(1) a loss or depreciation in value of the trust property; or

(2) the trust's failure to make a profit;

is the result of a violation by the trustee of IC 28-1-12-8 or IC 28-6.1-6-26, one (1) or more beneficiaries of the trust may petition the court for any remedy described in subsection (b) or for removal of the trustee under section 22(a)(4) of this chapter, regardless of whether the transaction under IC 28-1-12-8 or IC 28-6.1-6-26 constitutes or involves a breach of trust. The court may award one (1) or more remedies described in subsection (b) or remove the trustee, or both, if the court determines that the remedy or *the* removal of the trustee is in the best interests of all beneficiaries of the trust. The burden of proof is on the one (1) or more petitioning beneficiaries to demonstrate that the remedy or *the* removal of the trustee is in the best interests of all beneficiaries of the trust.

(d) The trustee is liable to the beneficiary for acts of an agent which, if committed by the trustee, would be a breach of the trust if the trustee:

(1) directs or permits the act of the agent;

(2) delegates the authority to perform an act to the agent which ~~tre~~ *the trustee* is under a duty not to delegate;

(3) fails to use reasonable care in the selection or retention of the agent;

(4) fails to exercise proper supervision over the conduct of the agent;

(5) approves, acquiesces in, or conceals the act of the agent; or

(6) fails to use reasonable effort to compel the agent to reimburse the trust estate for any loss or to account to the trust estate for any profit.

SECTION 229. IC 31-14-11-11, AS AMENDED BY P.L.148-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This subsection applies before January 1, 2007. The court shall require that child support payments be made through the clerk of the court or the child support bureau under IC 31-25-3 or IC 31-25-4 as trustee for remittance to the person entitled to receive the payments, unless the court has reasonable grounds for providing or approving another method of payment.

(b) Beginning January 1, 2007, the court shall require that child support payments:

(1) **if** paid in cash, be made through the clerk of the court; and

(2) **if** paid by a noncash method, be made through the state central collection unit established **within the child support bureau** by ~~IC 31-33-1.5-8;~~ **IC 31-25-3-1;**

as trustee for remittance to the person entitled to receive the payments.

SECTION 230. IC 31-14-11-15, AS AMENDED BY P.L.1-2007, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A party affected by a support order shall inform the clerk and the state central collection unit established **within the child support bureau** by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1** of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk and the state central collection unit established **within the child support bureau** by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1** of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

SECTION 231. IC 31-16-9-1, AS AMENDED BY P.L.148-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This subsection applies before January 1, 2007. Upon entering an order for support in:

(1) a dissolution of marriage decree under IC 31-15-2;

(2) a legal separation decree under IC 31-15-3; or

(3) a child support decree under IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

(b) Beginning January 1, 2007, except as provided in subsection (c), upon entering an order for support in:

(1) a dissolution of marriage decree under IC 31-15-2;

(2) a legal separation decree under IC 31-15-3; or

(3) a child support decree under IC 31-16-2;

the court shall require that support payments be made through the clerk of the circuit court or the state central collection unit established by IC 31-33-1.5-8, as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment.

(c) Beginning January 1, 2007, child support payments that are paid in cash must be paid to a clerk of the circuit court, and all noncash payments must be paid to the state central collection unit established **within the child support bureau** by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1.**

SECTION 232. IC 31-16-9-3, AS AMENDED BY P.L.1-2007, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A party affected by a support order shall inform the clerk and the state central collection unit established **within the child support bureau** by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1** of any change of address not more than fifteen (15) days after the party's address is changed.

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established **within the child support bureau** by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1** of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

SECTION 233. IC 31-16-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A lien is created against the real and personal property of the obligor in the amount of a judgment described in ~~section 5 or 6~~ **section 2** of this chapter.

(b) A person holding a lien created by a judgment described in ~~section 5 or 6~~ **section 2** of this chapter:

(1) has the priority of an unperfected secured creditor in any enforcement proceeding instituted against the property; and

(2) may perfect the lien in the same manner as liens arising from other civil judgments are perfected.

SECTION 234. IC 31-16-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An obligee may enforce a judgment created under ~~section 5 or 6~~ **section 2** of this chapter (or IC 31-2-11-8 before its repeal) in the same manner as other civil judgments are enforced.

(b) If in a proceeding to enforce a judgment created under ~~section 5 or 6~~ **section 2** of this chapter (or IC 31-2-11-8 before its repeal) an obligor or an income payor disputes the amount that constitutes a judgment, the court with jurisdiction over the enforcement proceeding may conduct a hearing to determine the amount of delinquent support that is a judgment.

SECTION 235. IC 31-16-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The courts shall recognize and enforce:

(1) judgments created under ~~section 5 or 6~~ **section 2** of this chapter (or IC 31-2-11-8 before its repeal); and

(2) judgments for delinquent support payments that are created under the laws of another state.

SECTION 236. IC 31-16-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An action for support of a parent may be instituted against a child for violation of the duty to support a parent as required by section 1 of this chapter by filing a verified complaint in a circuit or superior court of the county of the residence of either parent. The plaintiff or plaintiffs must be:

(1) the parent or parents; or

(2) the:

(A) prosecuting attorney of the judicial circuit;

(B) county director of the county office of family and children of the county in which the parent resides;

(C) township trustee of the township in which the parent resides; or

(D) division of family ~~and children,~~ **resources;**

on behalf of the parent.

SECTION 237. IC 31-17-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. In determining whether an award of joint legal custody under section 13 of this chapter would be in the best interest of the child, the court shall consider it a matter of primary, but not determinative, importance that the persons awarded joint custody have agreed to an award of joint legal custody. The court shall also consider:

(1) the fitness and suitability of each of the persons awarded joint custody;

(2) whether the persons awarded joint custody are willing and able to communicate and cooperate in advancing the child's welfare;

(3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age; ~~and~~

(4) whether the child has established a close and beneficial relationship with both of the persons awarded joint custody;

(5) whether the persons awarded joint custody:

(A) live in close proximity to each other; and

(B) plan to continue to do so; and

(6) the nature of the physical and emotional environment in the home of each of the persons awarded joint custody.

SECTION 238. IC 31-19-11-1, AS AMENDED BY P.L.138-2006, SECTION 44, AS AMENDED BY P.L.216-2006, SECTION 34, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father

registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the state department of health's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Domestic battery (IC 35-42-2-1.3).

~~(7)~~ *(8)* Aggravated battery (IC 35-42-2-1.5).

~~(8)~~ *(9)* Kidnapping (IC 35-42-3-2).

~~(9)~~ *(10)* Criminal confinement (IC 35-42-3-3).

~~(10)~~ *(11)* A felony sex offense under IC 35-42-4.

~~(11)~~ *(12)* Carjacking (IC 35-42-5-2).

~~(12)~~ *(13)* Arson (IC 35-43-1-1).

~~(13)~~ *(14)* Incest (IC 35-46-1-3).

~~(14)~~ *(15)* Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

~~(15)~~ *(16)* Child selling (IC 35-46-1-4(d)).

~~(16)~~ *(17)* A felony involving a weapon under IC 35-47 or IC 35-47.5.

~~(17)~~ *(18)* A felony relating to controlled substances under IC 35-48-4.

~~(18)~~ *(19)* An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

~~(19)~~ *(20)* A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ *(19)* for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), ~~(11),~~ (12), *(13),* ~~(16), or~~ (17), or *(18), or* its equivalent under subdivision ~~(19),~~ *(20),* if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is a sex *or violent* offender (as defined in IC 11-8-8-5).

SECTION 239. IC 31-25-2-20, AS ADDED BY P.L.153-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) The department shall collaborate with at least one (1) nonprofit community based agency to develop a grant proposal for submission to potential funding sources, including governmental entities and private foundations, to establish a minimum of three (3) kinship care navigator pilot projects to assist kinship caregivers with understanding and navigating the system of services for children in out-of-home care.

(b) The proposal under subsection (a) must seek to do the following:

(1) Divide the whole state into the following three (3) regions:

(A) Northern Indiana.

(B) Central Indiana.

(C) Southern Indiana.

(2) Establish at least one (1) kinship care navigator pilot project in each region described under subdivision (1) with each project managed by a participating community based agency.

(c) A person who acts as a kinship care navigator under the kinship care navigator pilot project shall be required to do the following:

(1) Have an understanding of the various state agency systems serving kinship caregivers.

(2) Work in partnership with local community service providers.

(3) Track trends, concerns, and other factors related to kinship caregivers.

(4) Assist in establishing stable, respectful relationships between kinship caregivers and department staff.

(d) The implementation of the kinship care navigator pilot projects ~~are~~ **is** contingent upon receipt of nonstate or private funding for the pilot projects.

(e) The department shall report annually to the:

(1) legislative council in an electronic format under IC 5-14-6; and

(2) governor;

on the implementation of the kinship care navigator pilot projects with recommendations on statewide implementation of the pilot projects beginning one (1) year after implementation of the pilot projects.

(f) The report under subsection (e) must:

(1) provide data that demonstrates whether the kinship care navigator pilot projects reduced barriers of access to services by kinship caregivers;

(2) identify statutory and administrative barriers for kinship caregivers; and

(3) provide recommendations to reduce or eliminate the barriers to services without adverse consequences to children placed with kinship caregivers.

(g) This SECTION expires January 1, 2011.

SECTION 240. IC 31-37-4-3, AS ADDED BY P.L.67-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section applies if a child is arrested or taken into custody for allegedly committing an act that would be any of the following crimes if committed by an adult:

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Aggravated battery (IC 35-42-2-1.5).
(7) Battery (IC 35-42-2-1).
(8) Kidnapping (IC 35-42-3-2).
(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8.
(10) Sexual misconduct with a minor (IC 35-42-4-9).
(11) Incest (IC 35-46-1-3).
(12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).
(13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).
(14) Carjacking (IC 35-42-5-2).
(15) Assisting a criminal as a Class C felony (IC 35-44-3-2).
(16) Escape (IC 35-44-3-5) as a Class B felony or Class C felony.
(17) Trafficking with an inmate as a Class C felony (IC 35-44-3-9).
(18) Causing death when operating a motor vehicle (IC 9-30-5-5).
(19) Criminal confinement (IC 35-42-3-3) as a Class B felony.
(20) Arson (IC 35-43-1-1) as a Class A or Class B felony.
(21) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.
(23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(24) A violation of IC 35-47.5 (controlled explosives) as a Class A or Class B felony.
(25) A controlled substances offense under IC 35-48.
(26) A criminal gang offense under IC 35-45-9.

(b) If a child is taken into custody under this chapter for a crime or act listed in subsection (a), the law enforcement agency that employs the law enforcement officer who takes the child into custody shall notify the chief administrative officer of the primary or secondary school, including a public or nonpublic school, in which the child is enrolled or, if the child is enrolled in a public school, the superintendent of the school district in which the child is enrolled:

(1) that the child was taken into custody; and

(2) of the reason why the child was taken into custody.

(c) The notification under ~~subsection (a)~~ **subsection (b)** must occur within forty-eight (48) hours after the child is taken into custody.

(d) A law enforcement agency may not disclose information that is confidential under state or federal law to a school or school district under this section.

SECTION 241. IC 33-37-5-26, AS ADDED BY P.L.176-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

(4) A small claims action.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial salaries fee equal to the amount specified in the schedule in subsection (d).

(b) In each small claims action filed in a court described in IC 33-37-1-1 or IC 33-34, the clerk shall collect a judicial salaries fee specified in the schedule in subsection (e).

(c) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have ~~violated~~ **committed** an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial salaries fee specified in the schedule in subsection (d).

(d) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars ($15);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is sixteen dollars ($16);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is seventeen dollars ($17);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eighteen dollars ($18);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is nineteen dollars ($19); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twenty dollars ($20).

(e) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is ten dollars ($10);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eleven dollars ($11);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twelve

dollars ($12);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is thirteen dollars ($13);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fourteen dollars ($14); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars ($15).

SECTION 242. IC 34-23-2-1, AS AMENDED BY P.L.2-2007, SECTION 373, AND AS AMENDED BY P.L.234-2007, SECTION 169, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, "child" means an unmarried individual without dependents who is:

(1) less than twenty (20) years of age; or

(2) less than twenty-three (23) years of age and is enrolled in ~~an~~ *a postsecondary educational* institution ~~of higher education~~ or ~~in~~ a ~~vocational~~ *career and technical education* school or program *that is not a postsecondary educational program.*

(b) An action may be maintained under this section against the person whose wrongful act or omission caused the injury or death of a child. The action may be maintained by:

(1) the father and mother jointly, or either of them by naming the other parent as a codefendant to answer as to his or her interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

(c) In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

(d) In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

(e) In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

(f) Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; or

(B) twenty-three (23) years of age, if the child was enrolled in ~~*an*~~ *a postsecondary educational* institution ~~*of higher education*~~ or in a ~~*vocational*~~ *career and technical education* school or program *that is not a postsecondary educational program;* or

(2) the date of the child's last surviving parent's death;

whichever first occurs.

(g) Damages may be awarded under subsection (e)(2) only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

(h) Damages awarded under subsection (e)(1), (e)(2), (e)(3)(C), and (e)(3)(D) inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

(2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or

(3) a custodial grandparent of the child if the child was not

survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child while the child was alive is not entitled to any recovery under this chapter.

SECTION 243. IC 34-26-5-3, AS AMENDED BY P.L.52-2007, SECTION 11, AND AS AMENDED BY P.L.138-2007, SECTION 92, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders;

(iii) no contact orders under IC 31 and IC 35; ~~and~~

(iv) forms relating to workplace violence restraining orders under IC 34-26-6; *and*

(v) forms relating to a child protective order under IC 31-34-2.3;

(C) a confidential form;

(D) a notice of modification or extension for an order for protection, a no contact order, ~~or~~ a workplace violence restraining order, *or a child protective order;*

(E) a notice of termination for an order for protection, a no contact order, ~~or~~ a workplace violence restraining order, *or a child protective order;* and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, ~~or~~ a workplace violence restraining order, *or a child protective order:*

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE *OR RESIDENCE OF ANY CHILD WHO IS THE SUBJECT OF THE ORDER,* EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

(1) the forms adopted under subsection (a);

(2) all other forms required to petition for an order for protection, including forms:

(A) necessary for service; and

(B) required under *IC 31-21 (or* IC 31-17-3 *before its repeal);* and

(3) clerical assistance in reading or completing the forms and

filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

(1) verified or under oath under Trial Rule 11; and

(2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

SECTION 244. IC 34-30-2-83.2, AS ADDED BY P.L.31-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 83.2. ~~IC 16-14-27-16.6~~ **IC 16-41-27-16.6** (Concerning an operator, an owner, or an employee of a mobile home community for the operator providing a reminder, assistance, or instructions concerning the function of a weather radio contained in a manufactured home).

SECTION 245. IC 34-30-2-83.5, AS ADDED BY P.L.234-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 83.5. ~~IC 16-41-42-6~~ **IC 16-41-42.2-5(k)** (Concerning members of the spinal cord and brain injury research board).

SECTION 246. IC 34-30-14-1, AS AMENDED BY P.L.166-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A school or school board may not:

(1) require a teacher or other school employee who is not employed as a school nurse or physician to administer:

(A) medication, drugs, or tests described in section 2 of this chapter; or

(B) health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary

purposes; or

(2) discipline a teacher or other school employee who ~~(A)~~ is not employed as a school nurse or physician and **who:**

~~(B)~~ **(A)** refuses to administer medication, drugs, or tests without the written:

(i) authority of a pupil's parent or guardian; or

(ii) order of a practitioner;

required under section 2 of this chapter; or

~~(C)~~ **(B)** refuses to administer health care services, basic life support, or other services that require the teacher or employee to place the teacher's or employee's hands on a pupil for therapeutic or sanitary purposes.

SECTION 247. IC 35-33.5-1-3, AS AMENDED BY P.L.105-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Designated offense" means the following:

(1) A Class A, Class B, or Class C felony that is a controlled substance offense (IC 35-48-4).

(2) Murder (IC 35-42-1-1).

(3) Kidnapping (IC 35-42-3-2).

(4) Criminal confinement (IC 35-42-3-3).

(5) Robbery (IC 35-42-5-1).

(6) Arson (IC 35-43-1-1).

(7) Child solicitation (IC 35-42-4-6).

(8) Human and sexual trafficking crimes under IC 35-42-3.5.

(9) Escape as a Class B felony or Class C felony (IC 35-44-3-5).

(10) An offense that relates to a weapon of mass destruction (as defined in **IC** 35-41-1-29.4).

(11) An attempt or conspiracy to commit an offense described in ~~subsections~~ **subdivisions** (1) through (10).

(12) An offense under the law of the United States or in another state or country that is substantially similar to an offense described in subdivisions (1) through (11).

SECTION 248. IC 35-33.5-4-1, AS AMENDED BY P.L.105-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A court may not authorize interception under a warrant or an extension for a period longer than is necessary to achieve the objective of the warrant or extension. Except as provided in subsection (d), a warrant and each extension may authorize

interception for not more than thirty (30) days. A court that issues a warrant or an extension shall order that the authorized interception must:

(1) occur within ten (10) days after the court issues the warrant or extension;

(2) be conducted in a manner that minimizes the interception of a communication that is clearly irrelevant to the investigation of a designated offense; and

(3) terminate upon completion of the authorized objective or within thirty (30) days after the interception begins, whichever occurs first.

(b) A court may grant not more than three (3) extensions.

(c) A warrant or an extension may direct that a person immediately furnish an applicant all information, facilities, and technical assistance within that person's control necessary to accomplish the interception with a minimum of interference with the services that the person is furnishing to the person whose communication is to be intercepted. The applicant shall compensate a person furnishing facilities or technical assistance to the applicant at the prevailing rates.

(d) A warrant issued under ~~section 3.5 of this chapter~~ **IC 35-33.5-2-3.5** expires after twenty-four (24) hours, unless:

(1) the court that issued the warrant established a shorter period of expiration; or

(2) the warrant is extended in accordance with section 2 of this chapter.

A warrant extended in accordance with section 2 of this chapter expires as described in subsection (a).

SECTION 249. IC 35-38-2-2.3, AS AMENDED BY P.L.125-2007, SECTION 8, AND AS AMENDED BY P.L.234-2007, SECTION170, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or ~~*vocational training*~~ *career and technical education* that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
(4) Support the person's dependents and meet other family responsibilities.
(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
(7) Pay a fine authorized by IC 35-50.
(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
(13) Perform uncompensated work that benefits the community.
(14) Satisfy other conditions reasonably related to the person's rehabilitation.
(15) Undergo home detention under IC 35-38-2.5.
(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of ~~*a sex crime listed in IC 35-38-1-7.1(c)*~~ *an offense relating to a criminal sexual act* and the ~~*crime*~~ *offense* created an epidemiologically

demonstrated risk of transmission of the human immunodeficiency virus (HIV); ~~*as described in IC 35-38-1-7.1(b)(8);*~~ or

(B) the person had been convicted of an offense ~~*related*~~ *relating* to a controlled substance ~~*listed in IC 35-38-1-7.1(f)*~~ and the offense involved: ~~*the conditions described in IC 35-38-1-7.1(b)(9)(A).*~~

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is

required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 250. IC 35-38-4-7, AS ADDED BY P.L.234-2007, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section applies to state reimbursement of expenses for conducting a new trial if:

(1) a defendant is convicted of an offense in a criminal proceeding conducted in a trial court;

(2) the defendant appeals the defendant's conviction to the Indiana court of appeals or Indiana supreme court; and

(3) the court of appeals or supreme court remands the case to the trial court for a new trial.

(b) Subject to subsection (d), the state shall reimburse the trial court, the prosecuting attorney, and, if the defendant is represented by a public defender, the public defender for expenses:

(1) incurred by the trial court, prosecuting attorney, and public defender in conducting a new trial described in subsection (a); and

(2) that would ordinarily be paid by the county in which the trial court is located.

(c) The expenses of a trial court, prosecuting attorney, and public defender reimbursed under this section:

(1) may not include any salary or other remuneration paid to a trial court judge, prosecuting attorney, deputy prosecuting attorney, or public defender; and

(2) must be paid from money in the state general fund.

(d) The office division of state court administration (IC 33-24-6-1) shall administer a program to pay claims for reimbursement under this section. The maximum amount that may be reimbursed for all proceedings and all offenses arising out of the same facts is fifty thousand dollars ($50,000). The maximum amount that may **be** paid in any particular year for all expenses otherwise eligible for reimbursement under this section is one million dollars ($1,000,000).

If the total of all claims that would otherwise be eligible for reimbursement under this section ~~exceed~~ **exceeds** the maximum amount that may be reimbursed under this subsection, the division of state court administration shall prorate reimbursement of eligible expenses, as determined by the division of state court administration.

SECTION 251. IC 35-41-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) "Person" means a human being, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

(b) "Person", for purposes of ~~section 10.7~~ **section 10.6** of this chapter, means an adult or a minor.

SECTION 252. IC 35-45-5-1, AS AMENDED BY P.L.2-2007, SECTION 377, AND AS AMENDED BY P.L.227-2007, SECTION 64, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. *(a)* ~~*As used in*~~ *The definitions in this section apply throughout* this chapter.

(b) "Electronic gaming device" means any electromechanical device, electrical device, or machine that satisfies at least one (1) of the following requirements:

(1) It is a contrivance which for consideration affords the player an opportunity to obtain money or other items of value, the award of which is determined by chance even if accomplished by some skill, whether or not the prize is automatically paid by the contrivance.

(2) It is a slot machine or any simulation or variation of a slot machine.

(3) It is a matchup or lineup game machine or device operated for consideration, in which two (2) or more numerals, symbols, letters, or icons align in a winning combination on one (1) or more lines vertically, horizontally, diagonally, or otherwise, without assistance by the player. The use of a skill stop is not considered assistance by the player.

(4) It is a video game machine or device operated for consideration to play poker, blackjack, any other card game, keno, or any simulation or variation of these games, including any game in which numerals, numbers, ~~*or*~~ *pictures, representations, or symbols are used as an equivalent or substitute for the cards used in these games.*

The term does not include a toy crane machine or any other device played for amusement that rewards a player exclusively with a toy, a novelty, candy, other noncash merchandise, or a ticket or coupon redeemable for a toy, a novelty, or other noncash merchandise that has a wholesale value of not more than the lesser of ten (10) times the amount charged to play the amusement device one (1) time or twenty-five dollars ($25).

(c) "Gain" means the direct realization of winnings.

(d) "Gambling" means risking money or other property for gain, contingent in whole or in part upon lot, chance, or the operation of a gambling device, but it does not include participating in:

(1) bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries; or

(2) bona fide business transactions that are valid under the law of contracts.

(e) "Gambling device" means:

(1) a mechanism by the operation of which a right to money or other property may be credited, in return for consideration, as the result of the operation of an element of chance;

(2) a mechanism that, when operated for a consideration, does not return the same value or property for the same consideration upon each operation;

(3) a mechanism, furniture, fixture, construction, or installation designed primarily for use in connection with professional gambling;

(4) a policy ticket or wheel; or

(5) a subassembly or essential part designed or intended for use in connection with such a device, mechanism, furniture, fixture, construction, or installation.

In the application of this definition, an immediate and unrecorded right to replay mechanically conferred on players of pinball machines and similar amusement devices is presumed to be without value.

(f) "Gambling information" means:

(1) a communication with respect to a wager made in the course of professional gambling; or

(2) information intended to be used for professional gambling.

(g) "Interactive computer service" means an Internet service, an

information service, a system, or an access software provider that provides or enables computer access to a computer served by multiple users. The term includes the following:

(1) A service or system that provides access or is an intermediary to the Internet.

(2) A system operated or services offered by a library, school, state educational institution, ~~*(as defined in IC 20-12-0.5-1),*~~ or private ~~*college or university.*~~ *postsecondary educational institution.*

(h) "Operator" means a person who owns, maintains, or operates an Internet site that is used for interactive gambling.

(i) "Profit" means a realized or unrealized benefit (other than a gain) and includes benefits from proprietorship or management and unequal advantage in a series of transactions.

(j) "Tournament" means a contest in which:

(1) the consideration to enter the contest may take the form of a separate entry fee or the deposit of the required consideration to play in any manner accepted by the:

(A) video golf machine; or

(B) pinball machine or similar amusement device described in subsection (m)(2);

on which the entrant will compete;

(2) each player's score is recorded; and

(3) the contest winner and other prize winners are determined by objectively comparing the recorded scores of the competing players.

(k) "Toy crane machine" means a device that is used to lift prizes from an enclosed space by manipulating a mechanical claw.

(l) For purposes of this chapter:

(1) a card game; or

(2) an electronic version of a card game;

is a game of chance and may not be considered a bona fide contest of skill.

(m) In the application of the definition of gambling set forth in subsection (d), the payment of consideration to participate in a tournament conducted on:

(1) video golf games; or

(2) pinball machines and similar amusement devices that award

no prizes other than to mechanically confer an immediate and unrecorded right to replay on players that is presumed to be without value under this section;

is not considered gambling even if the value of a prize awarded in the course of the tournament exceeds the amount of the player's consideration.

SECTION 253. IC 35-45-6-1, AS AMENDED BY P.L.227-2007, SECTION 68, AND AS AMENDED BY P.L.27-2007, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. ~~*As used in*~~ *(a) The definitions in this section apply throughout* this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of ~~*IC 23-2-1,*~~ *IC 23-19,* or of a rule or order issued under ~~*IC 23-2-1.*~~ *IC 23-19.*

(2) A violation of IC 35-45-9.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony (IC 35-42-2-1).

(7) Kidnapping (IC 35-42-3-2).
(8) Human and sexual trafficking crimes (IC 35-42-3.5).
(9) Child exploitation (IC 35-42-4-4).
(10) Robbery (IC 35-42-5-1).
(11) Carjacking (IC 35-42-5-2).
(12) Arson (IC 35-43-1-1).
(13) Burglary (IC 35-43-2-1).
(14) Theft (IC 35-43-4-2).
(15) Receiving stolen property (IC 35-43-4-2).
(16) Forgery (IC 35-43-5-2).
(17) Fraud (IC 35-43-5-4(1) through ~~IC 35-43-5-4(9)).~~ **IC 35-43-5-4(10)).**
(18) Bribery (IC 35-44-1-1).
(19) Official misconduct (IC 35-44-1-2).
(20) Conflict of interest (IC 35-44-1-3).
(21) Perjury (IC 35-44-2-1).
(22) Obstruction of justice (IC 35-44-3-4).
(23) Intimidation (IC 35-45-2-1).
(24) Promoting prostitution (IC 35-45-4-4).
(25) Professional gambling (IC 35-45-5-3).
(26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
~~(25)~~ *(27)* Promoting professional gambling (IC 35-45-5-4).
~~(26)~~ *(28)* Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
~~(27)~~ *(29)* Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).
~~(28)~~ *(30)* Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
~~(29)~~ *(31)* Dealing in a schedule IV controlled substance (IC 35-48-4-3).
~~(30)~~ *(32)* Dealing in a schedule V controlled substance (IC 35-48-4-4).
~~(31)~~ *(33)* Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
~~(32)~~ *(34)* Money laundering (IC 35-45-15-5).
~~(33)~~ *(35)* A violation of IC 35-47.5-5.

SECTION 254. IC 35-47-1-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Firearm" means any weapon:

(1) that is:

(A) capable of **expelling;** or

(B) designed to **expel;** or

(2) that may readily be converted to expel;

a projectile by means of an explosion.

SECTION 255. IC 35-47-4.5-3, AS AMENDED BY P.L.2-2007, SECTION 379, AND AS AMENDED BY P.L.227-2007, SECTION 69, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "public safety officer" means:

(1) a state police officer;

(2) a county sheriff;

(3) a county police officer;

(4) a correctional officer;

(5) an excise police officer;

(6) a county police reserve officer;

(7) a city police officer;

(8) a city police reserve officer;

(9) a conservation enforcement officer;

(10) a gaming agent;

(11) a town marshal;

(12) a deputy town marshal;

(13) a state ~~*university*~~ *educational institution* police officer appointed under ~~*IC 20-12-3.5,*~~ *IC 21-39-4;*

(14) a probation officer;

(15) a firefighter (as defined in IC 9-18-34-1);

(16) an emergency medical technician;

(17) a paramedic; ~~*or*~~

(18) a member of a consolidated law enforcement department established under IC 36-3-1-5.1; *or*

(19) a gaming control officer.

SECTION 256. IC 36-2-7-10, AS AMENDED BY P.L.211-2007, SECTION 47, AND AS AMENDED BY P.L.215-2007, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording,

filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or

using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(12) This subdivision applies in a county only if at least one (1) unit in the county has established an affordable housing fund under IC 5-20-5-15.5 and the county fiscal body adopts an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

(13) This subdivision applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e). The county fiscal body may adopt an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

(d) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under *section 10.1 of this chapter and* subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be

deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment. *Money from the fund may not be deposited or transferred into the county general fund and does not revert to the county general fund at the end of a fiscal year.*

(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

(i) This subsection applies to a county other than a county containing a consolidated city. The county treasurer shall distribute money collected by the county recorder under subsection (b)(12) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established an affordable housing fund. The population to be used for a county that establishes an affordable housing fund is the population of

the county outside any city or town that has established an affordable housing fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

(j) This subsection applies to a county described in subsection (b)(13). The county treasurer shall distribute money collected by the county recorder under subsection (b)(13) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(13) shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(13) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

SECTION 257. IC 36-2-14-18, AS AMENDED BY P.L.102-2007, SECTION 6, AS AMENDED BY P.L.157-2007, SECTION 5, AND AS AMENDED BY P.L.225-2007, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

(1) The name, age, address, sex, and race of the deceased.

(2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.

(3) The name of the agency to which the death was reported and

the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, *a* video recording, or *an* audio recording of the autopsy, upon the written request of ~~the~~ *a parent of the decedent, an adult child of the decedent, a* next of kin of the decedent, or ~~of~~ an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. ~~The~~ *A parent of the decedent, an adult child of the decedent, a next of kin of the decedent, and an* insurance company ~~is~~ *are* prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, *a* video recording, or *an* audio recording of the autopsy, upon the written request of:

(1) the director of the division of disability and rehabilitative

services established by IC 12-9-1-1;

(2) the director of the division of mental health and addiction established by IC 12-21-1-1; or

(3) the director of the division of aging established by IC 12-9.1-1-1;

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

(e) Notwithstanding any other provision of this section, a coroner shall make available, upon written request, a full copy of an autopsy report, including a photograph, a video recording, or an audio recording of the autopsy, to:

(1) the department of child services established by IC 31-25-1-1, including an office of the department located in the county where the death occurred;

(2) the statewide child fatality review committee established by IC 31-33-25-6; or

(3) a county child fatality review team or regional child fatality review team established under IC 31-33-24-6 by the county or for the county where the death occurred;

for purposes of an entity ~~the entities~~ described in subdivisions (1) through (3) conducting a review or an investigation of the circumstances surrounding the death of a child (as defined in IC 31-9-2-13(d)(1)) and making a determination as to whether the death of the child was a result of abuse, abandonment, or neglect. ~~(f)~~ An autopsy report made available under **this** *subsection ~~(e)~~ is confidential and shall not be disclosed to another individual or agency, unless otherwise authorized or required by law.*

(f) Except as provided in subsection (g), the information required to be available under subsection (a) must be completed not later than fourteen (14) days after the completion of:

(1) the autopsy report; or

(2) if applicable, any other report, including a toxicology report, requested by the coroner as part of the coroner's investigation;

whichever is completed last.

(g) The prosecuting attorney may petition a circuit or superior court for an order prohibiting the coroner from publicly disclosing the information required in subsection (a). The prosecuting attorney shall

serve a copy of the petition on the coroner.

(h) Upon receipt of a copy of the petition described in subsection (g), the coroner shall keep the information confidential until the court rules on the petition.

(i) The court shall grant a petition filed under subsection (g) if the prosecuting attorney proves by a preponderance of the evidence that public access or dissemination of the information specified in subsection (a) would create a significant risk of harm to the criminal investigation of the death. The court shall state in the order the reasons for granting or denying the petition. An order issued under this subsection must use the least restrictive means and duration possible when restricting access to the information. Information to which access is restricted under this subsection is confidential.

(j) Any person may petition the court to modify or terminate an order issued under subsection (i). The petition for modification or termination must allege facts demonstrating that:

(1) the public interest will be served by allowing access; and

(2) access to the information specified in subsection (a) would not create a significant risk to the criminal investigation of the death.

The person petitioning the court for modification or termination shall serve a copy of the petition on the prosecuting attorney and the coroner.

(k) Upon receipt of a petition for modification or termination filed under subsection (j), the court may:

(1) summarily grant, modify, or dismiss the petition; or

(2) set the matter for hearing.

If the court sets the matter for hearing, upon the motion of any party or upon the court's own motion, the court may close the hearing to the public.

(l) If the person filing the petition for modification or termination proves by a preponderance of the evidence that:

(1) the public interest will be served by allowing access; and

(2) access to the information specified in subsection (a) would not create a significant risk to the criminal investigation of the death;

the court shall modify or terminate its order restricting access to the information. In ruling on a request under this subsection, the court shall state the court's reasons for granting or denying the request.

SECTION 258. IC 36-2-14-22.3 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22.3. (a) The coroners training board established by IC 4-23-6.5-3, in consultation with the Indiana law enforcement academy, shall create and offer a training course for coroners and deputy coroners. The training course must include:**

(1) at least forty (40) hours of instruction; and

(2) instruction regarding:

(A) death investigation;

(B) crime scenes; and

(C) preservation of evidence at a crime scene for police and crime lab technicians.

(b) The coroners training board, in consultation with the Indiana law enforcement academy, shall create and offer an annual training course for coroners and deputy coroners. The annual training course must:

(1) include at least eight (8) hours of instruction; and

(2) cover recent developments in:

(A) death investigation;

(B) crime scenes; and

(C) preservation of evidence at a crime scene for police and crime lab technicians.

(c) In creating the courses under subsections (a) and (b), the coroners training board shall consult with a pathologist certified by the American Board of Pathology regarding medical issues that are a part of the training courses.

(d) All training in the courses offered under subsections (a) and (b) that involves medical issues must be approved by a pathologist certified by the American Board of Pathology.

(e) All training in the courses offered under subsections (a) and (b) that involves crime scenes and evidence preservation must be approved by a law enforcement officer.

(f) The coroners training board shall issue a coroner or deputy coroner a certificate upon successful completion of the courses described in subsections (a) and (b).

SECTION 259. IC 36-2-14-22.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22.4. A coroner shall follow the procedures set forth in IC 29-2-16.1 concerning organ and**

tissue procurement.

SECTION 260. IC 36-2-14-23, AS ADDED BY P.L.157-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Each coroner shall successfully complete the training course offered under ~~section 22.2(a)~~ **section 22.3(a)** of this chapter within six (6) months after taking office.

(b) Each deputy coroner shall successfully complete the training course offered under ~~section 22.2(a)~~ **section 22.3(a)** of this chapter within one (1) year after beginning employment with a coroner's office.

(c) Each coroner and each deputy coroner shall successfully complete the annual training course offered under ~~section 22.2(b)~~ **section 22.3(b)** of this chapter each year after the year in which the coroner or deputy coroner received the training required by ~~section 22.2(a)~~ **section 22.3(a)** of this chapter.

(d) After a coroner or deputy coroner has:

(1) successfully completed the training course as required under subsection (a) or (b); and

(2) successfully completed the annual training course as required under subsection (c);

the coroner or deputy coroner shall present a certificate or other evidence to the county executive, or in the case of a county that contains a consolidated city, the city-county council, that the coroner or deputy coroner has successfully completed the training required under subsection (a), (b), or (c).

(e) If a coroner or deputy coroner does not present a certificate or other evidence to the county executive, or in the case of a county that contains a consolidated city, the city-county council, that the coroner or deputy coroner has successfully completed the training required under subsection (a), (b), or (c), the county executive or city-county council shall order the auditor to withhold the paycheck of the coroner or deputy coroner until the coroner or deputy coroner satisfies the respective training requirements under subsections (a), (b), and (c), unless the county executive or city-county council adopts a resolution finding that:

(1) the failure of the coroner or deputy coroner to complete the respective training requirements under subsections (a), (b), and (c) is the result of unusual circumstances;

(2) the coroner or deputy coroner is making reasonable progress,

under the circumstances, toward completing the respective training requirements under subsections (a), (b), and (c); and

(3) in light of the unusual circumstances described in subdivision (1), withholding the paycheck of the coroner or deputy coroner would be unjust.

(f) If the county executive or city-county council orders an auditor to withhold a paycheck under subsection (e) and a coroner or deputy coroner later presents a certificate or other evidence to the county executive or city-county council that the coroner or deputy coroner has successfully completed training required under subsection (a), (b), or (c), the county executive or city-county council shall order the auditor to release all of the coroner's or deputy coroner's paychecks that were withheld from the coroner or deputy coroner.

SECTION 261. IC 36-2-15-5, AS AMENDED BY P.L.219-2007, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(5) In a county in which the transfer of duties is required by subsection (e), performance of the assessment duties prescribed by IC 6-1.1.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;

(2) fails to deliver a property tax record to the appropriate officer or board;

(3) fails to deliver an assessment to the county assessor; or

(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the

consent of the township board, enter into an agreement with:

(1) the county assessor; or

(2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) A transfer of duties between assessors under subsection (e) does not affect:

(1) any assessment, assessment appeal, or other official action made by an assessor before the transfer; or

(2) any pending action against, or the rights of any party that may possess a legal claim against, an assessor that is not described in subdivision (1).

Any assessment, assessment appeal, or other official action of an assessor made by the assessor within the scope of the assessor's official duties before the transfer is considered as having been made by the assessor to whom the duties are transferred.

(e) If for a particular general election after June 30, 2008, the person elected to the office of township assessor or the office of township trustee-assessor has not attained the certification of a level two assessor-appraiser as provided in ~~IC 3-8-1-23.5~~ **IC 3-8-1-23.6** before the date the term of office begins, the assessment duties prescribed by IC 6-1.1 that would otherwise be performed in the township by the township assessor or township trustee-assessor are transferred to the county assessor on that date. If assessment duties in a township are transferred to the county assessor under this subsection, those assessment duties are transferred back to the township assessor or township trustee-assessor (as appropriate) if at a later election a person who has attained the certification of a level two assessor-appraiser as provided in ~~IC 3-8-1-23.5~~ **IC 3-8-1-23.6** is elected to the office of township assessor or the office of township trustee-assessor.

(f) If assessment duties in a township are transferred to the county assessor under subsection (e):

(1) the office of elected township assessor remains vacant for the period during which the assessment duties prescribed by IC 6-1.1 are transferred to the county assessor; and

(2) the office of township trustee remains in place for the purpose

of carrying out all functions of the office other than assessment duties prescribed by IC 6-1.1.

SECTION 262. IC 36-6-5-1, AS AMENDED BY P.L.219-2007, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (f), a township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) Except as provided in subsection (f), a township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000) if:

(1) the legislative body of the township, ~~(1)~~ by resolution, declares that the office of township assessor is necessary; and

(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) Except as provided in subsection (f), a township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

(d) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

(e) The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

(f) A person who runs for the office of township assessor in an election after June 30, 2008, is subject to ~~IC 3-8-1-23.5.~~ **IC 3-8-1-23.6.**

SECTION 263. IC 36-7-32-11, AS AMENDED BY P.L.154-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the Indiana

economic development corporation may designate a certified technology park if the corporation determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education, a private research based institute, or a military research and development or testing facility on an active United States government military base or other military installation located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

(A) Grants of preferences for access to and commercialization of intellectual property.

(B) Access to laboratory and other facilities owned by or under the control of the postsecondary educational institution or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(H) Other criteria considered appropriate by the Indiana economic development corporation.

(2) A demonstration of a significant commitment by the postsecondary educational institution, private research based institute, or military research and development or testing facility on an active United States government military base or other military installation to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology

park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(A) A commitment to new business formation.

(B) The clustering of businesses, technology, and research.

(C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The Indiana economic development corporation may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

(c) A certified technology park designated under this section is subject to the review of the Indiana economic development corporation and must be recertified every four (4) years. The corporation shall

develop procedures and the criteria to be used in the review required by this subsection. A certified technology park shall furnish to the corporation the following information to be used in the course of the review:

(1) Total employment and payroll levels for all businesses operating within the certified technology park.

(2) The nature and extent of any technology transfer activity occurring within the certified technology park.

(3) The nature and extent of any nontechnology businesses operating within the certified technology park.

(4) The use and outcomes of any state money made available to the certified technology park.

(5) An analysis of the certified technology park's overall contribution to the technology based economy in Indiana.

(d) To the extent allowed under IC 5-14-3, the corporation shall maintain the confidentiality of any information that **is:**

(1) ~~is~~ submitted as part of the review process under subsection (c); and

(2) marked as confidential;

by the certified technology park.

SECTION 264. IC 36-7-32-18, AS AMENDED BY P.L.219-2007, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A redevelopment commission may, by resolution, provide that each taxpayer in a certified technology park that has been designated as an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in that year. One-half (1/2) of the credit shall be applied to each installment of property taxes. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the certified technology park:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's total eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the

taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the certified technology park fund under section 17 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the certified technology park fund under section 17 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of a certified technology park; and

(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by ~~IC 6-1.1-22-8(a),~~ **IC 6-1.1-22-8.1(b),** each county treasurer shall for each tax statement also deliver to each taxpayer in a certified technology park who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies must be stated on the notice.

(d) Notwithstanding any other law, a taxpayer in a certified technology park is not entitled to a credit for property tax replacement under IC 6-1.1-21-5.

SECTION 265. IC 36-7.6-2-4, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A county or second class city that:

(1) is not a member of a development authority; and

(2) was eligible to participate in the establishment of a particular development authority established under this article;

may join that development authority under this section.

(b) A county or second class city described in subsection (a) may join a development authority under this section only if:

(1) the fiscal body of the county or second class city adopts an ordinance authorizing the county or second class city to become

a member of the development authority; and

(2) after the fiscal body adopts an ordinance under subdivision (1), the development board of the development authority adopts a resolution authorizing the county or second class city to become a member of the development authority.

(c) A county or second class city becomes a member of a development authority on January 1 of the year following the year in which the development board adopts a resolution under subsection (b)(2) authorizing the county or second class city to become a member of the development authority.

(d) The executive of a county or second class city that becomes a member of a development authority under this section is entitled to appoint a member to the development board under section 7 of this chapter.

(e) A county or second class city may not join a development authority under this section if joining the development authority would violate the requirement in ~~section 3(i)~~ **section 3(h)** of this chapter that not more than two (2) development authorities may be established in a particular economic growth region.

(f) If a county joins a development authority under this section, each municipality in the county also becomes a member of the development authority.

SECTION 266. IC 36-8-12-16, AS AMENDED BY P.L.107-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A volunteer fire department that provides service within a jurisdiction served by the department may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

(1) At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides:

(A) Before the schedule of service charges is initiated.

(B) When there is a change in the amount of a service charge.

(2) The property owner has not sent written notice to the

department to refuse service by the department to the owner's property.

(3) The bill for payment of the service charge:

(A) is submitted to the property owner in writing within thirty (30) days after the services are provided; and

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report.

(b) A volunteer fire department shall use the revenue collected from the fire service charges under this section: ~~for:~~

(1) **for** the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) **for** deposit in the township firefighting fund established under IC 36-8-13-4; or

(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(c) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(d) A volunteer fire department that:

(1) has contracted with a political subdivision to provide fire protection or emergency services; and

(2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(e) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(f) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section.

SECTION 267. IC 36-8-15-19, AS AMENDED BY P.L.148-2007,

SECTION 9, AND P.L.195-2007, SECTION 10, AND AS AMENDED BY P.L.224-2007, SECTION 131, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This subsection applies to a county ~~*not having a consolidated city.*~~ *that has a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).* For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before September 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the local government tax control board *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the local government tax control board *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after

the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the board, which shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the local government tax control board *(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)* shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the board, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.

SECTION 268. IC 36-8-22-13, AS ADDED BY P.L.48-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) An employer is not required to meet and confer with an exclusive recognized representative under this chapter unless the exclusive recognized representative has notified the employer in writing that the exclusive recognized representative elects to exercise its rights under this chapter.

(b) Notwithstanding subsection (a), an employer may elect to meet and confer and enter into an agreement under section 12 of this chapter

even if the employer did not receive a written notice from an exclusive recognized representative.

(c) Notwithstanding any **other** provision of this chapter, an employer may elect to terminate its duty to meet and confer with an exclusive recognized representative under this chapter if:

(1) after meeting and conferring with the exclusive recognized representative under section 12 of this chapter, the employer and the exclusive recognized representative are unable to reach a written agreement under this chapter; and

(2) at least fifty percent (50%) of the members of the legislative body of the employer vote to terminate the employer's duty to meet and confer with the exclusive recognized representative under this chapter and written notice of the action of the legislative body is given to the exclusive recognized representative.

(d) An exclusive recognized representative that receives a termination notice from an employer under subsection (c)(2) must wait at least one (1) year after the date the exclusive recognized representative receives the notice to notify the employer of the exclusive recognized representative's election under subsection (a) to exercise its rights under this chapter.

SECTION 269. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-8-1-23.5; IC 5-2-14; IC 6-1.1-22-8; IC 6-6-5-7; IC 8-1-17-18; IC 12-15-44; IC 16-18-2-315.5; IC 16-41-42; IC 22-3-11-3; IC 22-3-11-4; IC 22-3-11-6; IC 27-8-5-19.2; IC 32-21-5-5.5; IC 35-48-7-8; IC 35-48-7-10; IC 35-48-7-11; IC 35-48-7-12; IC 35-48-7-13; IC 36-2-14-22.2.

SECTION 270. P.L.230-2007, SECTION 26, AS AMENDED BY P.L.230-2007, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 186. ~~Sec. 19.~~ (a) This SECTION applies instead of IC 23-2-5-19. The following persons are exempt from the requirements of sections 4, 5, 6, 9, 17, 18, and 21 of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as

defined by IC 25-2.1-1-10).

(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.

(4) Any broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(6) Any community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing and community development authority established by IC 5-20-1-3.

(7) The Indiana housing and community development authority.

(8) Subject to subsection (e), and except as provided in subsection (f), any person authorized to:

(A) sell and service a loan for the Federal National Mortgage Association or the Federal Home Loan Mortgage Association;

(B) issue securities backed by the Government National Mortgage Association;

(C) make loans insured by the United States Department of Housing and Urban Development or the United States Department of Agriculture Rural Housing Service; ~~or~~

(D) act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs; **or**

(E) act as a correspondent of loans insured by the United States Department of Housing and Urban Development, if the person closes at least twenty-five (25) such insured loans in Indiana during each calendar year.

(9) Any person who is a creditor, or proposed to be a creditor, for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a

person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

(e) A person claiming an exemption under subsection (a)(8) shall, as a condition to receiving or maintaining the exemption, file a notice every twenty-four (24) months on a form acceptable to the commissioner. The notice required under this subsection must:

(1) provide the name and business address of each originator employed by the person to originate loans in Indiana;

(2) include all other information required by the commissioner; and

(3) be accompanied by a fee of two hundred dollars ($200).

If any information included in a notice under this subsection changes after the notice has been submitted, the person shall provide written notice to the commissioner of the change. The commissioner's receipt of a notice under this subsection shall not be considered to be a determination or confirmation by the commissioner of the validity of the claimed exemption.

(f) An exemption described in subsection (a)(8) does not extend to:

(1) a subsidiary of the exempt person; or

(2) an unaffiliated third party.

An exemption that applies to a person under subsection (a)(8)(D) does not extend to a registered United States Department of Veterans Affairs agent.

(g) This SECTION expires June 30, 2008.

SECTION 271. P.L.234-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 48. (a) As used in this SECTION, "board" refers to the spinal cord and

brain injury research board created by ~~IC 16-41-42-6,~~ **IC 16-41-42.2-5,** as added by this act.

(b) Notwithstanding ~~IC 16-41-42-6,~~ **IC 16-41-42.2-5,** as added by this act, members initially appointed to the board under ~~IC 16-41-42-6(b)(1), IC 16-42-41-6(c)(1), and IC 16-42-41-6(c)(2),~~ **IC 16-41-42.2-5(b)(1), IC 16-41-42.2-5(c)(1), and IC 16-41-42.2-5(c)(2), all** as added by this act, are appointed for a term of four (4) years.

(c) Notwithstanding ~~IC 16-41-42-6,~~ **IC 16-41-42.2-5,** as added by this act, members initially appointed to the board under ~~IC 16-41-42-6(c)(3) and IC 16-41-42-6(c)(4),~~ **IC 16-41-42.2-5(c)(3) and IC 16-41-42.2-5(c)(4), both** as added by this act, are appointed for a term of three (3) years.

(d) Notwithstanding ~~IC 16-41-42-6,~~ **IC 16-41-42.2-5,** as added by this act, members initially appointed to the board under ~~IC 16-41-42-6(b)(4) and IC 16-41-42-6(c)(5),~~ **IC 16-41-42.2-5(b)(4) and IC 16-41-42.2-5(c)(5), both** as added by this act, are appointed for a term of two (2) years.

(e) Notwithstanding ~~IC 16-41-42-6,~~ **IC 16-41-42.2-5,** as added by this act, members initially appointed to the board under ~~IC 16-41-42-6(b)(2) and IC 16-41-42-6(b)(3),~~ **IC 16-41-42.2-5(b)(2) and IC 16-41-42.2-5(b)(3), both** as added by this act, are appointed for a term of one (1) year.

(f) This SECTION expires July 1, 2011.

SECTION 272. **An emergency is declared for this act.**

ACTS 2008

Laws enacted by the

115th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION
(2008)

VOLUME II

(P.L.4-2008 through P.L.105-2008)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

P.L.4-2008
[S.45. Approved February 20, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. "Basin" has the following meaning:

(1) For purposes of IC 14-25-1, the meaning set forth in section 1.2 of IC 14-25-15-1.

~~(1)~~ **(2)** For purposes of IC 14-30-1, the meaning set forth in IC 14-30-1-1.

~~(2)~~ **(3)** For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-1.

~~(3)~~ **(4)** For purposes of IC 14-30-3, the meaning set forth in IC 14-30-3-1.

~~(4)~~ **(5)** For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-1.

SECTION 2. IC 14-8-2-49.2, AS ADDED BY P.L.225-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 49.2. **(a)** "Compact", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(8).

(b) "Compact", for purposes of IC 14-25-15, has the meaning set forth in IC 14-25-15-1.

SECTION 3. IC 14-25-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The general assembly finds that a diversion of water out of the ~~Great Lakes~~ **basin, unless conducted under the Great Lakes—St. Lawrence River Basin Water Resources Compact,** will impair or destroy the Great Lakes. The general assembly further finds that the ~~prohibition~~ **regulation** of a diversion of water from the ~~Great Lakes~~ **basin** is

consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted **outside the basin** from that part of the ~~Great Lakes drainage~~ basin within Indiana unless the diversion is:

(1) approved by the governor of each Great Lakes state under 42 U.S.C. 1962d-20 (Water Resources Development Act); **or**

(2) conducted:

(A) after the effective date of; and

(B) in accordance with the requirements of;

the Great Lakes—St. Lawrence River Basin Water Resources Compact.

(c) The commission shall adopt rules necessary to implement this section.

SECTION 4. IC 14-25-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) As used in this section, "significant water withdrawal facility" means the water withdrawal facilities of a person that, in the aggregate from all sources and by all methods, has the capability of withdrawing more than one hundred thousand (100,000) gallons of ground water, surface water, or ground and surface water combined in one (1) day. **Subject to subsection (b),** the term does not include:

(1) water withdrawal facilities that function as part of the operation or construction of a landfill; or

(2) water withdrawal facilities located in or on an off-stream impoundment that is principally supplied by a significant water withdrawal facility.

(b) A water withdrawal facility referred to in subsection (a)(1) or (a)(2) located in the basin (as defined in section 1.2 of IC 14-25-15-1) is subject to the registration requirement of section 4.1.3 of IC 14-25-15-1.

~~(b)~~ **(c)** Every person who has a significant water withdrawal facility shall register the facility with the commission on forms provided by the commission that contain the following:

(1) The name and legal address of the registrant.

(2) The source of water supply.

(3) The total capability of the water withdrawal facility.

(4) The total withdrawal capability per day and the amount from each source.

(5) The use to be made of the water, the place of use, and the place of discharge.

(6) The geographic location of the supply source.

(7) The date of registration.

(8) Other information specified by rule.

~~(c)~~ **(d)** A significant water withdrawal facility must be registered within three (3) months after the facility is completed.

~~(d)~~ **(e)** The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year, make a verified report to the commission on forms to be provided by the commission of the amounts of water withdrawn during the year.

~~(e)~~ **(f)** Under rules adopted by the ~~department,~~ **commission,** the department may waive the requirement of the information set forth in subsections ~~(b)~~ **(c)** and ~~(d)~~ **(e)** with respect to a temporary significant water withdrawal facility.

SECTION 5. IC 14-25-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 15. Great Lakes—St. Lawrence River Basin Water Resources Compact

Sec. 1. The following interstate agreement on the use of water resources in the Great Lakes—St. Lawrence River basin is enacted into law and entered into by this state with all other states legally joining the interstate agreement in substantially the following form:

AGREEMENT

Section 1. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

ARTICLE 1

SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

Section 1.1. Short title. This act shall be known and may be cited as the "Great Lakes—St. Lawrence River Basin Water Resources Compact".

Section 1.2. Definitions. For the purposes of the compact, and of any supplemental or concurring legislation enacted under the compact, except as may be otherwise required by the context:

"Adaptive management" means a water resources management system that provides a systematic process for evaluation, monitoring, and learning from the outcomes of operational programs and adjustment of policies, plans, and programs based on experience and the evolution of scientific knowledge concerning water resources and water dependent natural resources.

"Agreement" means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

"Applicant" means a person who is required to submit a proposal that is subject to management and regulation under the compact. "Application" has a corresponding meaning.

"Basin" or "Great Lakes—St. Lawrence River basin" means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec, within the jurisdiction of the parties.

"Basin ecosystem" or "Great Lakes—St. Lawrence River basin ecosystem" means the interacting components of air, land, water, and living organisms, including humankind, within the basin.

"Community within a straddling county" means any incorporated city, town, or the equivalent thereof, that is located outside the basin but wholly within a county that lies partly within the basin and that is not a straddling community.

"Compact" means this compact.

"Consumptive use" means that portion of the water withdrawn or withheld from the basin that is lost or otherwise not returned to the basin due to evaporation, incorporation into products, or other processes.

"Council" means the Great Lakes—St. Lawrence River basin water resources council, created by the compact.

"Council review" means the collective review by the council members as described in article 4 of the compact.

"County" means the largest territorial division for local government in a state. The county boundaries shall be defined as

those boundaries that exist as of December 13, 2005.

"Cumulative impacts" means the impact on the basin ecosystem that results from incremental effects of all aspects of a withdrawal, diversion, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, diversions, and consumptive uses regardless of who undertakes the other withdrawals, diversions, and consumptive uses. Cumulative impacts can result from individually minor but collectively significant withdrawals, diversions, and consumptive uses taking place over a period of time.

"Decision making standard" means the decision making standard established by section 4.11 for proposals subject to management and regulation in section 4.10.

"Diversion" means a transfer of water from the basin into another watershed, or from the watershed of one (1) of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the basin or a Great Lake watershed to manufacture or produce a product that is then transferred out of the basin or watershed. "Divert" has a corresponding meaning.

"Environmentally sound and economically feasible water conservation measures" means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that:

(i) are environmentally sound;

(ii) reflect best practices applicable to the water use sector;

(iii) are technically feasible and available;

(iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs; and

(v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, processes employed, energy impacts, and other appropriate factors.

"Exception" means a transfer of water that is excepted under section 4.9 from the prohibition against diversions in section 4.8.

"Exception standard" means the standard for exceptions established in section 4.9.4.

"Intra-basin transfer" means the transfer of water from the watershed of one (1) of the Great Lakes into the watershed of another Great Lake.

"Measures" means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice, or other procedure.

"New or increased diversion" means a new diversion, an increase in an existing diversion, or the alteration of an existing withdrawal so that it becomes a diversion.

"New or increased withdrawal or consumptive use" means a new withdrawal or consumptive use or an increase in an existing withdrawal or consumptive use.

"Originating party" means the party within whose jurisdiction an application or registration is made or required.

"Party" means a state party to the compact.

"Person" means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with, nor under the direction of, a government.

"Product" means something produced in the basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or end use consumers.

(i) Water used as part of the packaging of a product shall be considered to be part of the product.

(ii) Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the basin is not a product or part of a product.

(iii) Except as provided in item (i), water that is transferred as part of a public or private supply is not a product or part of a product.

(iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a product.

"Proposal" means a withdrawal, diversion, or consumptive use of water that is subject to the compact.

"Province" means Ontario or Québec.

"Public water supply purposes" means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water withdrawn directly from the basin and not through such a system shall not be considered to be used for public water supply purposes.

"Regional body" means the members of the council and the premiers of Ontario and Québec or their designee as established by the agreement.

"Regional review" means the collective review by the regional body as described in article 4 of the compact.

"Source watershed" means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was withdrawn.

"Standard of review and decision" means the exception standard, decision making standard, and reviews as outlined in article 4 of the compact.

"State" means one (1) of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, or Wisconsin, or the Commonwealth of Pennsylvania.

"Straddling community" means any incorporated city, town, or the equivalent thereof, wholly within any county that lies partly or completely within the basin, whose corporate boundary existing as of the effective date of the compact, is partly within the basin or partly within two (2) Great Lakes watersheds.

"Technical review" means a detailed review conducted to determine whether or not a proposal that requires regional review under the compact meets the standard of review and decision following procedures and guidelines as set out in the compact.

"Water" means ground or surface water contained within the

basin.

"Water dependent natural resources" means the interacting components of land, water, and living organisms affected by the waters of the basin.

"Waters of the basin" or "basin water" means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the basin.

"Withdrawal" means the taking of water from surface water or groundwater. "Withdraw" has a corresponding meaning.

Section 1.3. Findings and purposes. The legislative bodies of the respective parties hereby find and declare:

1. Findings:

a. the waters of the basin are precious public natural resources shared and held in trust by the states;

b. the waters of the basin are interconnected and part of a single hydrologic system;

c. the waters of the basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem; and, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

d. future diversions and consumptive uses of basin water resources have the potential to significantly impact the environment, economy, and welfare of the Great Lakes—St. Lawrence River region;

e. continued sustainable, accessible, and adequate water supplies for the people and economy of the basin are of vital importance; and

f. the parties have a shared duty to protect, conserve, restore, improve, and manage the renewable but finite waters of the basin for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the basin waters is through the joint pursuit of unified and cooperative principles, policies,

and programs mutually agreed upon, enacted, and adhered to by all parties.

2. Purposes:

a. to act together to protect, conserve, restore, improve, and effectively manage the waters and water dependent natural resources of the basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the basin ecosystem;

b. to remove causes of present and future controversies;

c. to provide for cooperative planning and action by the parties with respect to such water resources;

d. to facilitate consistent approaches to water management across the basin while retaining state management authority over water management decisions within the basin;

e. to facilitate the exchange of data, strengthen the scientific information base upon which decisions are made, and engage in consultation on the potential effects of proposed withdrawals and losses on the waters and water dependent natural resources of the basin;

f. to prevent significant adverse impacts of withdrawals and losses on the basin's ecosystems and watersheds;

g. to promote interstate and state-provincial comity; and

h. to promote an adaptive management approach to the conservation and management of basin water resources, which recognizes, considers, and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the basin's waters and water dependent natural resources.

Section 1.4. Science.

1. The parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound water management decision making under the compact.

2. The strategy shall guide the collection and application of scientific information to support:

a. an improved understanding of the individual and

cumulative impacts of withdrawals from various locations and water sources on the basin ecosystem and to develop a mechanism by which impacts of withdrawals may be assessed;

b. the periodic assessment of cumulative impacts of withdrawals, diversions, and consumptive uses on the Great Lakes and St. Lawrence River watershed basin;

c. improved scientific understanding of the waters of the basin;

d. improved understanding of the role of groundwater in basin water resources management; and

e. the development, transfer, and application of science and research related to water conservation and water use efficiency.

ARTICLE 2
ORGANIZATION

Section 2.1. Council created. The Great Lakes—St. Lawrence River Basin water resources council is hereby created as a body politic and corporate, with succession for the duration of the compact, as an agency and instrumentality of the governments of the respective parties.

Section 2.2. Council membership. The council shall consist of the governors of the parties, ex officio.

Section 2.3. Alternates. Each member of the council shall appoint at least one (1) alternate who may act in his or her place and stead, with authority to attend all meetings of the council and with power to vote in the absence of the member. Unless otherwise provided by law of the party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

Section 2.4. Voting.

1. Each member is entitled to one (1) vote on all matters that may come before the council.

2. Unless otherwise stated, the rule of decision shall be by a simple majority.

3. The council shall annually adopt a budget for each fiscal

year, and the amount required to balance the budget shall be apportioned equitably among the parties by unanimous vote of the council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective parties.

4. The participation of council members from a majority of the parties shall constitute a quorum for the transaction of business at any meeting of the council.

Section 2.5. Organization and procedure. The council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review, and consideration of proposals that come before the council for its review and action. The council shall organize, annually, by the election of a chair and vice chair from among its members. Each member may appoint an adviser, who may attend all meetings of the council and its committees, but shall not have voting power. The council may employ or appoint professional and administrative personnel, including an executive director, as it may deem advisable, to carry out the purposes of the compact.

Section 2.6. Use of existing offices and agencies. It is the policy of the parties to preserve and utilize the functions, powers, and duties of existing offices and agencies of government to the extent consistent with the compact. Further, the council shall promote and aid the coordination of the activities and programs of the parties concerned with water resources management in the basin. To this end, but without limitation, the council may:

1. advise, consult, contract, assist, or otherwise cooperate with any and all such agencies;

2. employ any other agency or instrumentality of any of the parties for any purpose; and

3. develop and adopt plans consistent with the water resources plans of the parties.

Section 2.7. Jurisdiction. The council shall have, exercise, and discharge its functions, powers, and duties within the limits of the basin. Outside the basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the basin and subject to the consent of the jurisdiction wherein it proposes to act.

Section 2.8. Status, immunities, and privileges. The council, its members, and personnel in their official capacity and when engaged directly in the affairs of the council, its property, and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the parties, except to the extent that the council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

The property and assets of the council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by executive or legislative action.

The council, its property, and its assets, income and the operations it carries out under the compact shall be immune from all taxation by or under the authority of any of the parties or any political subdivision thereof. However, in lieu of property taxes, the council may make reasonable payments to local taxing districts in annual amounts that shall approximate the taxes lawfully assessed upon similar property.

Section 2.9. Advisory committees. The council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, tribal, county, and local governments, water resources agencies, water using industries and sectors, water interest groups, and academic experts in related fields.

ARTICLE 3
GENERAL POWERS AND DUTIES

Section 3.1. General. The waters and water dependent natural resources of the basin are subject to the sovereign right and responsibilities of the parties, and it is the purpose of the compact to provide for joint exercise of such powers of sovereignty by the council in the common interests of the people of the region, in the manner and to the extent provided in the compact. The council and the parties shall use the standard of review and decision and procedures contained in or adopted under the compact as the means to exercise their authority under the compact.

The council may revise the standard of review and decision, after consultation with the provinces and upon unanimous vote of

all council members, by regulation duly adopted in accordance with section 3.3 of the compact and in accordance with each party's respective statutory authorities and applicable procedures.

The council shall identify priorities and develop plans and policies relating to basin water resources. It shall adopt and promote uniform and coordinated policies for water resources conservation and management in the basin.

Section 3.2. Council powers. The council may:

1. plan;

2. conduct research and collect, compile, analyze, interpret, report, and disseminate data on water resources and uses;

3. forecast water levels;

4. conduct investigations;

5. institute court actions;

6. design, acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of the compact;

7. make contracts;

8. receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by any party or by any other public or private agency, corporation, or individual; and

9. exercise such other and different powers as may be delegated to it by the compact or otherwise under law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

Section 3.3. Rules and regulations.

1. The council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of the compact. The council may adopt by regulation, after public notice and public hearing, reasonable application fees with respect to those proposals for exceptions that are subject to council review under section 4.9 of the compact. Any rule or regulation of the council, other than one that deals solely with the internal management of the council or its property, shall be adopted only after public notice and

hearing.

2. Each party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce the compact and the programs adopted by such party to carry out the management programs contemplated by the compact.

Section 3.4. Program review and findings.

1. Each party shall submit a report to the council and the regional body detailing its water management and conservation and efficiency programs that implement the compact. The report shall set out the manner in which water withdrawals are managed by sector, water source, quantity, or any other means, and how the provisions of the standard of review and decision and conservation and efficiency programs are implemented. The first report shall be provided by each party one (1) year from the effective date of the compact and thereafter every five (5) years.

2. The council, in cooperation with the provinces, shall review its water management and conservation and efficiency programs and those of the parties that are established in the compact and make findings on whether the water management program provisions in the compact are being met and, if not, recommend options to assist the parties in meeting the provisions of the compact. Such review shall take place:

a. thirty (30) days after the first report is submitted by all parties;

b. every five (5) years after the effective date of the compact; and

c. at any other time at the request of one (1) of the parties.

3. As one of its duties and responsibilities, the council may recommend a range of approaches to the parties with respect to the development, enhancement, and application of water management and conservation and efficiency programs to implement the standard of review and decision reflecting improved scientific understanding of the waters of the basin, including groundwater, and the impacts of withdrawals on the basin ecosystem.

ARTICLE 4

WATER MANAGEMENT AND REGULATION

Section 4.1. Water resources inventory, registration, and reporting.

1. Within five (5) years of the effective date of the compact, each party shall develop and maintain a water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the water resources of the party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of withdrawals, diversions, and consumptive uses. To the extent feasible, the water resources inventory shall be developed in cooperation with local, state, federal, tribal, and other private agencies and entities, as well as the council. Each party's agencies shall cooperate with that party in the development and maintenance of the inventory.

2. The council shall assist each party to develop a common base of data regarding the management of the water resources of the basin and to establish systematic arrangements for the exchange of those data with other states and provinces.

3. To develop and maintain a compatible base of water use information, within five (5) years of the effective date of the compact any person who withdraws water in an amount of one hundred thousand (100,000) gallons per day or greater average in any thirty (30) day period (including consumptive uses) from all sources, or diverts water of any amount, shall register the withdrawal or diversion by a date set by the council unless the person has previously registered in accordance with an existing state program. The person shall register the withdrawal or diversion with the originating party using a form prescribed by the originating party that shall include, at a minimum and without limitation:

a. the name and address of the registrant and date of registration;

b. the locations and sources of the withdrawal or diversion;

c. the capacity of the withdrawal or diversion per day and the amount withdrawn or diverted from each source;

d. the uses made of the water;

e. places of use and places of discharge; and

f. such other information as the originating party may require.

All registrations shall include an estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any thirty (30) day period.

4. All registrants shall annually report the monthly volumes of the withdrawal, consumptive use, and diversion in gallons to the originating party and any other information requested by the originating party.

5. Each party shall annually report the information gathered under this section to a Great Lakes—St. Lawrence River water use data base repository, and aggregated information shall be made publicly available, consistent with the confidentiality requirements in section 8.3 of the compact.

6. Information gathered by the parties under this section shall be used to improve the sources and applications of scientific information regarding the waters of the basin and the impacts of the withdrawals and diversions from various locations and water sources on the basin ecosystem, and to better understand the role of groundwater in the basin. The council and the parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and cumulative impacts of withdrawals, consumptive uses, and diversions shall be assessed.

Section 4.2. Water conservation and efficiency programs.

1. The council commits to identify, in cooperation with the provinces, basinwide water conservation and efficiency objectives to assist the parties in developing their water conservation and efficiency program. These objectives are based on the goals of:

a. ensuring improvement of the waters and water dependent natural resources;

b. protecting and restoring the hydrologic and ecosystem integrity of the basin;

c. retaining the quantity of surface water and groundwater in the basin;

d. ensuring sustainable use of waters of the basin; and

e. promoting the efficiency of use and reducing losses and

waste of water.

2. Within two (2) years of the effective date of the compact, each party shall develop its own water conservation and efficiency goals and objectives consistent with the basinwide goals and objectives, and shall develop and implement a water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the party's goals and objectives. Each party shall annually assess its programs in meeting the party's goals and objectives, report to the council and the regional body and make this annual assessment available to the public.

3. Beginning five (5) years after the effective date of the compact, and every five (5) years thereafter, the council, in cooperation with the provinces, shall review and modify as appropriate the basinwide objectives, and the parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of water use, new resource demands and threats, and cumulative impact assessment under section 4.15.

4. Within two (2) years of the effective date of the compact, the parties commit to promote environmentally sound and economically feasible water conservation measures such as:

a. measures that promote efficient use of water;

b. identification and sharing of best management practices and state of the art conservation and efficiency technologies;

c. application of sound planning principles;

d. demand-side and supply-side measures or incentives; and

e. development, transfer, and application of science and research.

5. Each party shall implement in accordance with paragraph 2 above a voluntary or mandatory water conservation program for all, including existing basin water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

Section 4.3. Party powers and duties.

1. Each party, within its jurisdiction, shall manage and

regulate new or increased withdrawals, consumptive uses, and diversions, including exceptions, in accordance with the compact.

2. Each party shall require an applicant to submit an application in such manner and with such accompanying information as the party shall prescribe.

3. No party may approve a proposal if the party determines that the proposal is inconsistent with the compact or the standard of review and decision or any implementing rules or regulations promulgated thereunder. The party may approve, approve with modifications, or disapprove any proposal depending on the proposal's consistency with the compact and the standard of review and decision.

4. Each party shall monitor the implementation of any approved proposal to ensure consistency with the approval and may take all necessary enforcement actions.

5. No party shall approve a proposal subject to council or regional review, or both, under the compact unless it shall have been first submitted to and reviewed by either the council or regional body, or both, and approved by the council, as applicable. Sufficient opportunity shall be provided for comment on the proposal's consistency with the compact and the standard of review and decision. All such comments shall become part of the party's formal record of decision, and the party shall take into consideration any such comments received.

Section 4.4. Requirement for originating party approval. No proposal subject to management and regulation under the compact shall hereafter be undertaken by any person unless it shall have been approved by the originating party.

Section 4.5. Regional review.

1. General.

a. It is the intention of the parties to participate in regional review of proposals with the provinces, as described in the compact and the agreement.

b. Unless the applicant or the originating party otherwise requests, it shall be the goal of the regional body to conclude its review no later than ninety (90) days after notice under paragraph 2 of this section of such proposal

is received from the originating party.

c. Proposals for exceptions subject to regional review shall be submitted by the originating party to the regional body for regional review and, where applicable, to the council for concurrent review.

d. The parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River basin ecosystem shall be the overarching principle for reviewing proposals subject to regional review, recognizing uncertainties with respect to demands that may be placed on basin water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data, and the extent to which diversions may harm the integrity of the basin ecosystem.

e. The originating party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a proposal, and shall consult with the applicant throughout the regional review process.

f. A majority of the members of the regional body may request regional review of a regionally significant or potentially precedent setting proposal. Such regional review must be conducted, to the extent possible, within the time frames set forth in this section. Any such regional review shall be undertaken only after consulting the applicant.

2. Notice from originating party to the regional body.

a. The originating party shall determine if a proposal is subject to regional review. If so, the originating party shall provide timely notice to the regional body and the public.

b. Such notice shall not be given unless and until all information, documents, and the originating party's technical review needed to evaluate whether the proposal meets the standard of review and decision have been provided.

c. An originating party may:

i. provide notice to the regional body of an application, even if notification is not required; or

ii. request regional review of an application, even if

regional review is not required. Any such regional review shall be undertaken only after consulting the applicant.

d. An originating party may provide preliminary notice of a potential proposal.

3. Public participation.

a. To ensure adequate public participation, the regional body shall adopt procedures for the review of proposals that are subject to regional review in accordance with this article of the compact.

b. The regional body shall provide notice to the public of a proposal undergoing regional review. Such notice shall indicate that the public has an opportunity to comment in writing to the regional body on whether the proposal meets the standard of review and decision.

c. The regional body shall hold a public meeting in the state or province of the originating party in order to receive public comment on the issue of whether the proposal under consideration meets the standard of review and decision.

d. The regional body shall consider the comments received before issuing a declaration of finding.

e. The regional body shall forward the comments it receives to the originating party.

4. Technical review.

a. The originating party shall provide the regional body with its technical review of the proposal under consideration.

b. The originating party's technical review shall thoroughly analyze the proposal and provide an evaluation of the proposal sufficient for a determination of whether the proposal meets the standard of review and decision.

c. Any member of the regional body may conduct the member's own technical review of any proposal subject to regional review.

d. At the request of the majority of its members, the regional body shall make such arrangements as it considers appropriate for an independent technical review of a proposal.

e. All parties shall exercise their best efforts to ensure that a technical review undertaken under sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the originating party on the application. Unless the applicant or the originating party otherwise requests, all technical reviews shall be completed no later than sixty (60) days after the date the notice of the proposal was given to the regional body.

5. Declaration of finding.

a. The regional body shall meet to consider a proposal. The applicant shall be provided with an opportunity to present the proposal to the regional body at such time.

b. The regional body, having considered the notice, the originating party's technical review, any other independent technical review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized tribes, and any other information that is provided under the compact shall issue a declaration of finding that the proposal under consideration:

i. meets the standard of review and decision;

ii. does not meet the standard of review and decision; or

iii. would meet the standard of review and decision if certain conditions were met.

c. An originating party may decline to participate in a declaration of finding made by the regional body.

d. The parties recognize and affirm that it is preferable for all members of the regional body to agree whether the proposal meets the standard of review and decision.

e. If the members of the regional body who participate in the declaration of finding all agree, they shall issue a written declaration of finding with consensus.

f. In the event that the members cannot agree, the regional body shall make every reasonable effort to achieve consensus within twenty-five (25) days.

g. Should consensus not be achieved, the regional body may issue a declaration of finding that presents different points of view and indicates each party's conclusions.

h. The regional body shall release the declarations of

finding to the public.

i. The originating party and the council shall consider the declaration of finding before making a decision on the proposal.

Section 4.6. Proposals subject to prior notice.

1. Beginning no later than five (5) years after the effective date of the compact, the originating party shall provide all parties and the provinces with detailed and timely notice and an opportunity to comment within ninety (90) days on any proposal for a new or increased consumptive use of five million (5,000,000) gallons per day or greater average in any ninety (90) day period. Comments shall address whether or not the proposal is consistent with the standard of review and decision. The originating party shall provide a response to any such comment received from another party.

2. A party may provide notice, an opportunity to comment, and a response to comments even if this is not required under paragraph 1 of this section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the applicant.

Section 4.7. Council actions.

1. Proposals for exceptions subject to council review shall be submitted by the originating party to the council for council review and, where applicable, to the regional body for concurrent review.

2. The council shall review and take action on proposals in accordance with the compact and the standard of review and decision. The council shall not take action on a proposal subject to regional review under the compact unless the proposal shall have been first submitted to and reviewed by the regional body. The council shall consider any findings resulting from such review.

Section 4.8. Prohibition of new or increased diversions. All new or increased diversions are prohibited, except as provided for in this article of the compact.

Section 4.9. Exceptions to the prohibition of diversions.

1. Straddling communities. A proposal to transfer water to an area within a straddling community but outside the basin or outside the source Great Lake watershed shall be excepted

from the prohibition against diversions and be managed and regulated by the originating party provided that, regardless of the volume of water transferred, all the water so transferred shall be used solely for public water supply purposes within the straddling community, and:

a. all water withdrawn from the basin shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

i. is part of a water supply or wastewater treatment system that combines water from inside and outside of the basin;

ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin; and

iii. maximizes the portion of water returned to the source watershed as basin water and minimizes the surface water or groundwater from outside the basin;

b. if the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also meet the exception standard; and

c. if the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also undergo regional review.

2. Intra-basin transfer. A proposal for an intra-basin transfer that would be considered a diversion under the compact, and not already excepted under paragraph 1 of this section, shall be excepted from the prohibition against diversions, provided that:

a. If the proposal results from a new or increased withdrawal less than one hundred thousand (100,000) gallons per day average over any ninety (90) day period, the proposal shall be subject to management and regulation at the discretion of the originating party.

b. If the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per

day or greater average over any ninety (90) day period and if the consumptive use resulting from the withdrawal is less than five million (5,000,000) gallons per day average over any ninety (90) day period:

i. the proposal shall meet the exception standard and be subject to management and regulation by the originating party, except that the water may be returned to another Great Lake watershed rather than the source watershed;

ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies; and

iii. the originating party shall provide notice to the other parties prior to making any decision with respect to the proposal.

c. If the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period:

i. the proposal shall be subject to management and regulation by the originating party and shall meet the exception standard, ensuring that water withdrawn shall be returned to the source watershed;

ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies;

iii. the proposal undergoes regional review; and

iv. the proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.

3. Straddling counties. A proposal to transfer water to a community within a straddling county that would be considered a diversion under the compact shall be excepted from the prohibition against diversions, provided that it satisfies all of the following conditions:

a. The water shall be used solely for the public water supply purposes of the community within a straddling

county that is without adequate supplies of potable water.

b. The proposal meets the exception standard, maximizing the portion of water returned to the source watershed as basin water and minimizing the surface water or groundwater from outside the basin.

c. The proposal shall be subject to management and regulation by the originating party, regardless of its size.

d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies.

e. Caution shall be used in determining whether or not the proposal meets the conditions for this exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the basin ecosystem.

f. The proposal undergoes regional review.

g. The proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.

A proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the basin.

4. Exception standard. Proposals subject to management and regulation in this section shall be declared to meet this exception standard and may be approved as appropriate only when the following criteria are met:

a. The need for all or part of the proposed exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies.

b. The exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed.

c. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this

criterion except if it:

i. is part of a water supply or wastewater treatment system that combines water from inside and outside the basin; and

ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin.

d. The exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of the basin with consideration given to the potential cumulative impacts of any precedent setting consequences associated with the proposal.

e. The exception will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures to minimize water withdrawals or consumptive use.

f. The exception will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.

g. All other applicable criteria in this section have also been met.

Section 4.10. Management and regulation of new or increased withdrawals and consumptive uses.

1. Within five (5) years of the effective date of the compact, each party shall create a program for the management and regulation of new or increased withdrawals and consumptive uses by adopting and implementing measures consistent with the decision making standard. Each party, through a considered process, shall set and may modify threshold levels for the regulation of new or increased withdrawals in order to assure an effective and efficient water management program that will ensure that uses overall are reasonable, that withdrawals overall will not result in significant impacts to the waters and water dependent natural resources of the basin determined on the basis of significant impacts to the physical,

chemical, and biological integrity of source watersheds, and that all other objectives of the compact are achieved. Each party may determine the scope and thresholds of its program, including which new or increased withdrawals and consumptive uses will be subject to the program.

2. Any party that fails to set threshold levels that comply with paragraph 1 of this section any time before ten (10) years after the effective date of the compact shall apply a threshold level for management and regulation of all new or increased withdrawals of one hundred thousand (100,000) gallons per day or greater average in any ninety (90) day period.

3. The parties intend programs for new or increased withdrawals and consumptive uses to evolve as may be necessary to protect basin waters. Pursuant to section 3.4, the council, in cooperation with the provinces, shall periodically assess the water management programs of the parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the decision making standard.

Section 4.11. Decision making standard. Proposals subject to management and regulation in section 4.10 shall be declared to meet this decision making standard and may be approved as appropriate only when the following criteria are met:

1. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use.

2. The withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources and the applicable source watershed.

3. The withdrawal or consumptive use will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures.

4. The withdrawal or consumptive use will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the

Boundary Waters Treaty of 1909.

5. The proposed use is reasonable, based upon a consideration of the following factors:

a. Whether the proposed withdrawal or consumptive use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of water.

b. If the proposal is for an increased withdrawal or consumptive use, whether efficient use is made of existing water supplies.

c. The balance between economic development, social development, and environmental protection of the proposed withdrawal and use and other existing or planned withdrawals and water uses sharing the water source.

d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources.

e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed withdrawal and use under foreseeable conditions to other lawful consumptive or nonconsumptive uses of water or to the quantity or quality of the waters and water dependent natural resources of the basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts.

f. If a proposal includes restoration of hydrologic conditions and functions of the source watershed, the party may consider that.

Section 4.12. Applicability.

1. Minimum standard. This standard of review and decision shall be used as a minimum standard. Parties may impose a more restrictive decision making standard for withdrawals under their authority. It is also acknowledged that although a proposal meets the standard of review and decision it may not be approved under the laws of the originating party that has implemented more restrictive measures.

2. Baseline.

a. To establish a baseline for determining a new or increased diversion, consumptive use, or withdrawal, each party shall develop either or both of the following lists for

their jurisdiction:

i. A list of existing withdrawal approvals as of the effective date of the compact.

ii. A list of the capacity of existing systems as of the effective date of the compact. The capacity of the existing systems should be presented in terms of withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

b. For all purposes of the compact, volumes of diversions, consumptive uses, or withdrawals of water set forth in the list prepared by each party in accordance with this section shall constitute the baseline volume.

c. The list shall be furnished to the regional body and the council within one (1) year of the effective date of the compact.

3. Timing of additional applications. Applications for new or increased withdrawals, consumptive uses, or exceptions shall be considered cumulatively within ten (10) years of any application.

4. Change of ownership. Unless a new owner proposes a project that results in a proposal for a new or increased diversion or consumptive use subject to regional review or council approval, the change of ownership in and of itself shall not require regional review or council approval.

5. Groundwater. The basin surface water divide shall be used for the purpose of managing and regulating new or increased diversions, consumptive uses, or withdrawals of surface water and groundwater.

6. Withdrawal systems. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a withdrawal, consumptive use, or diversion.

7. Connecting channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

8. Transmission in water lines. Transmission of water within a line that extends outside the basin as it conveys water from one point to another within the basin shall not be considered a diversion if none of the water is used outside the basin.

9. Hydrologic units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

10. Bulk water transfer. A proposal to withdraw water and to remove it from the basin in any container greater than five and seven-tenths (5.7) gallons shall be treated under the compact in the same manner as a proposal for a diversion. Each party shall have the discretion, within its jurisdiction, to determine the treatment of proposals to withdraw water and to remove it from the basin in any container of five and seven-tenths (5.7) gallons or less.

Section 4.13. Exemptions. Withdrawals from the basin for the following purposes are exempt from the requirements of article 4.

1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

2. To use in a noncommercial project on a short term basis for firefighting, humanitarian, or emergency response purposes.

Section 4.14. United States Supreme Court decree: Wisconsin et al. v. Illinois et al.

1. Notwithstanding any terms of the compact to the contrary, with the exception of paragraph 5 of this section, current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of the compact nor any rules or regulations promulgated under the compact. This means that, with the exception of paragraph 5 of this section, for purposes of the compact, current, new, or increased withdrawals, consumptive uses, and diversions of basin water within the state of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

2. The parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that the compact shall not modify any terms thereof, and that the compact shall grant the parties no additional rights, obligations, remedies, or defenses thereto. The parties specifically acknowledge that the compact shall not prohibit or limit the state of Illinois in any manner from seeking additional basin water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the state of Illinois for additional basin water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the parties to the compact who are also parties to the decree shall seek formal input from the Canadian provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

3. With the exception of paragraph 5 of this section, because current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois are not subject to the terms of the compact, the state of Illinois is prohibited from using any term of the compact, including section 4.9 of the compact, to seek new or increased withdrawals, consumptive uses, or diversions of basin water.

4. With the exception of paragraph 5 of this section, because sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (paragraphs 1, 2, 3, 4, 6, and 10 only), and 4.13 of the compact all relate to current, new, or increased withdrawals, consumptive uses, and diversions of basin waters, said provisions do not apply to the state of Illinois. All other provisions of the compact not listed in the preceding sentence shall apply to the state of Illinois, including the water conservation programs provision of section 4.2 of the compact.

5. In the event of a proposal for a diversion of basin water for

use outside the territorial boundaries of the parties to the compact, decisions by the state of Illinois regarding such a proposal would be subject to all terms of the compact, except paragraphs 1, 3, and 4 of this section.

6. For purposes of the state of Illinois' participation in the compact, the entirety of section 4.14 of the compact is necessary for the continued implementation of the compact, and, if severed, the compact shall no longer be binding on or enforceable by or against the state of Illinois.

Section 4.15. Assessment of cumulative impacts.

1. The parties in cooperation with the provinces shall collectively conduct within the basin, on a lake watershed and St. Lawrence River basin basis, a periodic assessment of the cumulative impacts of withdrawals, diversions, and consumptive uses from the waters of the basin, every five (5) years or each time the incremental basin water losses reach fifty million (50,000,000) gallons per day average in any ninety (90) day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one (1) or more of the parties. The assessment shall form the basis for a review of the standard of review and decision, council and party regulations, and their application. This assessment shall:

a. utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;

b. give substantive consideration to climate change or other significant threats to basin waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate measures to exercise caution in cases of uncertainty if serious damage may result;

c. consider adaptive management principles and approaches, recognizing, considering, and providing adjustments for the uncertainties in, and evolution of, science concerning the basin's water resources, watersheds, and ecosystems, including potential changes to basinwide processes, such as lake level cycles and climate.

2. The parties have the responsibility of conducting this

cumulative impact assessment. Applicants are not required to participate in this assessment.

3. Unless required by other statutes, applicants are not required to conduct a separate cumulative impact assessment in connection with an application but shall submit information about the potential impacts of a proposal to the quantity or quality of the waters and water dependent natural resources of the applicable source watershed. An applicant may, however, provide an analysis of how the applicant's proposal meets the no significant adverse cumulative impact provision of the standard of review and decision.

ARTICLE 5

TRIBAL CONSULTATION

Section 5.1. Consultation with tribes.

1. In addition to all other opportunities to comment under section 6.2 of the compact, appropriate consultations shall occur with federally recognized tribes in the originating party for all proposals subject to council or regional review under the compact. Such consultations shall be organized in the manner suitable to the individual proposal and the laws and policies of the originating party.

2. All federally recognized tribes within the basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the council or the regional body, or both, and other relevant organizations on whether the proposal meets the requirements of the standard of review and decision when a proposal is subject to regional review or council approval. Any notice from the council shall inform the tribes of any meeting or hearing that is to be held under section 6.2 of the compact and invite them to attend. The parties and the council shall consider the comments received under this section before approving, approving with modifications, or disapproving any proposal subject to council or regional review.

3. In addition to the specific consultation mechanisms described above, the council shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from, federally recognized tribes on matters to be dealt with by the council, and the council shall seek to

establish mechanisms and processes with federally recognized tribes designed to facilitate ongoing scientific and technical interaction and data exchange regarding matters falling within the scope of the compact. This may include participation of tribal representatives on advisory committees established under the compact or such other processes that are mutually agreed upon with federally recognized tribes individually or through duly authorized intertribal agencies or bodies.

ARTICLE 6

PUBLIC PARTICIPATION

Section 6.1. Meetings, public hearings, and records.

1. The parties recognize the importance and necessity of public participation in promoting management of the water resources of the basin. Consequently, all meetings of the council shall be open to the public, except with respect to issues of personnel.

2. The minutes of the council shall be a public record open to inspection at its offices during regular business hours.

Section 6.2. Public participation. It is the intent of the council to conduct public participation processes concurrently and jointly with processes undertaken by the parties and through regional review. To ensure adequate public participation, each party or the council shall ensure procedures for the review of proposals subject to the standard of review and decision consistent with the following requirements:

1. Provide public notification of receipt of all applications and a reasonable opportunity for the public to submit comments before applications are acted upon.

2. Assure public accessibility to all documents relevant to an application, including public comment received.

3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an application, date, time, and place of such a meeting or hearing, and procedures for conducting of the same.

4. Provide the record of decision for public inspection, including comments, objections, responses and approvals, approvals with conditions, and disapprovals.

ARTICLE 7

DISPUTE RESOLUTION AND ENFORCEMENT

Section 7.1. Good faith implementation. Each of the parties pledges to support implementation of all provisions of the compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other party carrying out any provision of the compact.

Section 7.2. Alternative dispute resolution.

1. Desiring that the compact be carried out in full, the parties agree that disputes between the parties regarding interpretation, application, and implementation of the compact shall be settled by alternative dispute resolution.

2. The council, in consultation with the provinces, shall provide by rule procedures for the resolution of disputes under this section.

Section 7.3. Enforcement.

1. Any person aggrieved by any action taken by the council under the authorities contained in the compact shall be entitled to a hearing before the council. Any person aggrieved by a party action shall be entitled to a hearing under the relevant party's administrative procedures and laws. After exhaustion of such administrative remedies:

(i) any aggrieved person shall have the right to judicial review of a council action in the United States District Courts for the District of Columbia or the district court in which the council maintains offices, provided such action is commenced within ninety (90) days; and

(ii) any aggrieved person shall have the right to judicial review of a party's action in the relevant party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the party's law. For purposes of this paragraph, a state or province is deemed to be an aggrieved person with respect to any party action under the compact.

2.a. Any party or the council may initiate actions to compel compliance with the provisions of the compact, and the rules and regulations promulgated hereunder by the council. Jurisdiction over such actions is granted to the court of the relevant party, as well as the United States District Courts for

the District of Columbia and the district court in which the council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.

2.b. Each party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by the compact in accordance with the provisions of the laws adopted in each party's jurisdiction.

3. Any aggrieved person, party, or the council may commence a civil action in the relevant party's courts and administrative systems to compel any person to comply with the compact should any such person, without approval having been given, undertake a new or increased withdrawal, consumptive use, or diversion that is prohibited or subject to approval under the compact.

a. No action under this subsection may be commenced if:

i. the originating party or council approval for the new or increased withdrawal, consumptive use, or diversion has been granted; or

ii. the originating party or council has found that the new or increased withdrawal, consumptive use, or diversion is not subject to approval under the compact.

b. No action under this subsection may be commenced unless:

i. a person commencing such action has first given sixty (60) days prior notice to the originating party, the council, and the person alleged to be in noncompliance; and

ii. neither the originating party nor the council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with the compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

4. Each of the parties may adopt provisions providing additional enforcement mechanisms and remedies, including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of the compact.

ARTICLE 8

ADDITIONAL PROVISIONS

Section 8.1. Effect on existing rights.

1. Nothing in the compact shall be construed to affect, limit, diminish, or impair any rights validly established and existing as of the effective date of the compact under state or federal law governing the withdrawal of waters of the basin.

2. Nothing contained in the compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective parties relating to common law water rights.

3. Nothing in the compact is intended to abrogate or derogate from treaty rights or rights held by any tribe recognized by the federal government of the United States based upon its status as a tribe recognized by the federal government of the United States.

4. An approval by a party or the council under the compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, state, or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

Section 8.2. Relationship to agreements concluded by the United States of America.

1. Nothing in the compact is intended to provide nor shall be construed to provide, directly or indirectly, to any person any right, claim, or remedy under any treaty or international agreement, nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in the compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United

States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

3. Nothing in the compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of the compact.

Section 8.3. Confidentiality.

1. Nothing in the compact requires a party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

2. A party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary, or commercially sensitive information when distributing information to other parties. The party shall summarize or paraphrase any such information in a manner sufficient for the council to exercise its authorities contained in the compact.

Section 8.4. Additional laws. Nothing in the compact shall be construed to repeal, modify, or qualify the authority of any party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of waters within its jurisdiction.

Section 8.5. Amendments and supplements. The provisions of the compact shall remain in full force and effect until amended by action of the governing bodies of the parties and consented to and approved by any other necessary authority in the same manner as the compact is required to be ratified to become effective.

Section 8.6. Severability. Should a court of competent jurisdiction hold any part of the compact to be void or unenforceable, it shall be considered severable from those portions of the compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

Section 8.7. Duration of compact and termination. Once effective, the compact shall continue in force and remain binding upon each and every party unless terminated. The compact may be terminated at any time by a majority vote of the parties. In the

event of such termination, all rights established under it shall continue unimpaired.

ARTICLE 9
EFFECTUATION

Section 9.1. Repealer. All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

Section 9.2. Effectuation by chief executive. The governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the compact and the initial organization and operation thereunder.

Section 9.3. Entire agreement. The parties consider the compact to be complete and an integral whole. Each provision of the compact is considered material to the entire compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in the compact, any change or amendment made to the compact by any party in its implementing legislation or by the Congress of the United States when giving its consent to the compact is not considered effective unless concurred in by all parties.

Section 9.4. Effective date and execution. The compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Wisconsin, and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. The compact shall be signed and sealed in nine (9) identical original copies by the respective chief executives of the signatory parties. One (1) such copy shall be filed with the secretary of state of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one (1) copy shall be filed and retained in the archives of the council upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of the compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective governors do hereby, in accordance with the authority conferred by law, sign the compact in nine (9) duplicate original copies, attested by the respective secretaries of state, and have caused the seals of the respective states to be hereunto affixed

this____ day of (month), (year).

Sec. 2. (a) The governor, ex officio, shall:

(1) serve as the Indiana administrator of the compact; and

(2) appoint at least one (1) alternate under section 2.3 of the compact.

(b) The governor shall do the following as administrator:

(1) Receive copies of all agreements that are entered into under the compact by the following:

(A) This state.

(B) Other states.

(C) Political subdivisions of this state.

(2) Consult with, advise, and aid the states and political subdivisions referred to in subdivision (1) in the formulation of those agreements.

(3) Make any recommendations that the governor considers desirable in order to effectuate the purposes of the compact to the following:

(A) The general assembly.

(B) Legislatures of other states.

(C) Governmental agencies of other states.

(D) Political subdivisions of this state.

(4) Consult with and cooperate with the compact administrators of the states other than Indiana.

(c) Pursuant to section 9.2 of the compact, the governor may take actions necessary for the initial organization and operation of the council.

Sec. 3. Agencies of this state are authorized to cooperate with the council.

Sec. 4. (a) Before casting a vote under section 3.1 of the compact with respect to any regulation that amends or revises the standard of review and decision, the governor or the governor's alternate shall obtain authorization from the general assembly for the vote. The governor or the governor's alternate shall exercise the vote consistent with the terms of the general assembly's authorization.

(b) An authorization by the general assembly under subsection (a) must be by adoption of:

(1) an act; or

(2) a concurrent resolution.

Sec. 5. The natural resources commission:

(1) except as provided in subdivision (2), may not:

(A) adopt rules to establish; or

(B) otherwise implement;

any mandatory program governing water conservation and efficiency under section 4.2 of the compact;

(2) may adopt rules to establish a mandatory program governing water conservation and efficiency under section 4.2 of the compact only if the general assembly adopts an act authorizing the adoption of the rules;

(3) shall adopt rules under IC 4-22-2 that implement voluntary water conservation and efficiency programs; and

(4) shall adopt rules under IC 4-22-2, which may provide for general permits, for the implementation, administration, and enforcement of article 4 of the compact.

Sec. 6. A proposal for an exception to the prohibition in section 4.8 of the compact to transfer water to an area outside the basin shall be managed and regulated using the thresholds established in section 4.9 of the compact.

Sec. 7. (a) Except as provided in section 8 of this chapter, a person must, under the rules established under section 5(4) of this chapter, obtain a permit from the department for a daily withdrawal in excess of any of the following, calculated on average over any ninety (90) day period:

(1) Five million (5,000,000) gallons from Lake Michigan surface water.

(2) Subject to subsection (b), one hundred thousand (100,000) gallons from a salmonid stream.

(3) For any other surface water or groundwater source, one million gallons (1,000,000).

(b) Notwithstanding 327 IAC 2-1.5-5(a)(3), the salmonid streams subject to subsection (a)(2) are the following:

(1) Trail Creek and its tributaries downstream to Lake Michigan.

(2) Galien River and its tributaries in LaPorte County.

(3) East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.

(4) St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line.

(5) Subject to subsection (c), any other watercourse determined by rule by the commission.

(c) Before adopting a rule under subsection (b)(5), the commission shall seek input from the U.S. Fish and Wildlife Service.

Sec. 8. Except as provided in this section, a withdrawal that does not exceed the amount of a baseline status determination made under section 12 of this chapter is exempt from section 7(a) of this chapter. The director may limit a withdrawal that would reduce flow in a watercourse below the established minimum stream flow.

Sec. 9. Not later than ten (10) years after the compact takes effect under section 9.4 of the compact, the general assembly shall study and make findings and recommendations concerning the following:

(1) The appropriateness of the permit threshold amounts established in section 7(a) of this chapter considering:

(A) advances made under section 1.4 of the compact;

(B) findings under IC 14-25-14; and

(C) other new water management technology and practices that become available.

(2) Any changes in those amounts that the general assembly deems warranted.

Sec. 10. (a) The criterion of section 4.11.2 of the compact is met only if the withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of either:

(1) The basin considered as a whole; or

(2) The Lake Michigan or Lake Erie watershed considered as a whole.

(b) Impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than:

(1) the basin considered as a whole; or

(2) the Lake Michigan or Lake Erie watershed considered as a whole;

are considered a part of the evaluation of reasonable use under section 4.11.5 of the compact.

(c) When determining whether there will be significant

individual or cumulative adverse impacts under this section:

(1) consideration shall be given to the impacts incurred in a particular tributary or stream reach where those impacts are important to:

(A) the basin; or

(B) the Lake Michigan or Lake Erie watershed as a whole; and

(2) a judgment shall be made of the nature, degree, scope, and materiality of the impacts and the regional importance of those impacts to:

(A) the basin; and

(B) the Lake Michigan or Lake Erie watershed.

Sec. 11. An applicant may use either of the following methods to provide consumptive use amounts required under article 4 of the compact:

(1) The most current values published for the appropriate sector from:

(A) the United States Geological Survey;

(B) the Great Lakes Commission;

(C) the council; or

(D) other sources approved by the department.

(2) Site specific calculations for the applicant's facility that are based on standard engineering practices.

Sec. 12. (a) This section governs any status determination of a baseline under section 4.12.2 of the compact for each of the following from the Indiana portion of the basin:

(1) The total withdrawal capability registered under IC 14-25-7-15(c)(3) is deemed the existing withdrawal approval amount for section 4.12.2.a.i of the compact.

(2) A consumptive use attributable to a facility described in IC 14-25-7-15(a)(1).

(3) A facility that diverts water outside the basin.

(b) The department shall make each determination required under subsection (a) following an investigation. Before completing the investigation, the department shall:

(1) inform the owner of the facility of the amount of any proposed baseline; and

(2) provide the owner with a period of at least thirty (30) days to offer documentation the owner believes would properly modify the proposed baseline amount.

(c) The department shall provide notice under IC 4-21.5-3-5 of a status determination under this section to the owner of the facility for which the determination is made.

(d) The owner of a facility for which a status determination is made under this section is the only person with standing to seek administrative review of the determination.

Sec. 13. (a) As used in this section, "product":

(1) refers to a product, regardless of whether the product is distributed inside or outside the basin, that:

(A) is produced in the Indiana portion of the basin; and

(B) is packaged and intended for intermediate or end-use consumers; and

(C) includes water:

(i) withdrawn from the basin; and

(ii) packaged in containers with a capacity of not more than five and seven-tenths (5.7) gallons.

(b) Any incorporation of water into a product:

(1) is a consumptive use; and

(2) does not constitute a diversion for purposes of the compact.

SECTION 6. IC 34-30-2-56.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 56.5. IC 14-25-15-1 (Section 2.8 concerning a person acting under the Great Lakes—St. Lawrence River Basin Water Resources Compact).**

P.L.5-2008
[S.33. Approved February 22, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 10-12-5-3, AS AMENDED BY P.L.189-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007 (RETROACTIVE)]: Sec. 3. (a) The pension advisory board that administers the pension under IC 10-12-3 shall direct and supervise the supplemental benefits provided in this chapter.

(b) The pension advisory board shall:

(1) annually provide a schedule showing the number of retirees receiving pension benefits under IC 10-12-3; and

(2) meet at least one (1) time each year to add to the regular pension benefit or annuity and any previously granted supplemental benefit the amount described in subsection (c) **or (d).**

(c) This subsection applies only to a retiree who is eligible for the first time under section 2 of this chapter to receive a supplemental benefit. The supplemental benefit referred to in subsection (b)(2) for a retiree in the first year the retiree is eligible for a supplemental benefit is the sum of:

(1) the difference between:

(A) the retiree's pension benefit; and

(B) the pension benefit:

(i) received by an employee retiring in that year from the department with twenty (20) years of active service; and

(ii) computed on the day the pension advisory board meets as required under subsection (b)(2); plus

(2) any amount computed under subsection (d) after the date the retiree reaches fifty-five (55) years of age.

~~(c)~~ **(d) This subsection applies to a retiree who is eligible under section 2 of this chapter to receive a supplemental benefit, but whose supplemental benefit is not computed under subsection (c).** The supplemental benefit referred to in subsection (b)(2) is equal to fifty percent (50%) of the difference between:

(1) the pension benefits to be received by an employee retiring from the department with twenty (20) years of active service the day after a change in the monthly wage received by a police employee in the grade of trooper at the beginning of the trooper's sixth year of service; and

(2) ~~the lesser of:~~

~~(A) the pension benefit received by the employee beneficiary; or~~

~~(B)~~ the pension benefit received by an employee retiring from the department with twenty (20) years of active service the day before a change in the monthly wage received by a police employee in the grade of trooper at the beginning of the trooper's sixth year of service.

SECTION 2. IC 10-12-5-4, AS AMENDED BY P.L.189-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007 (RETROACTIVE)]: Sec. 4. As an incentive to all employees of the department, the supplemental pension benefits of this chapter shall be increased by more than the ~~fifty percent (50%)~~ increase provided in ~~section 3~~ **section 3(c) or 3(d)** of this chapter, at the rate of a five percent (5%) per year increase for each year of active service over twenty (20) years up to thirty (30) years of service, as calculated in section (3)(c) **or 3(d)** of this chapter.

SECTION 3. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) IC 10-12-5-3 and IC 10-12-5-4, both as amended by this act, apply to supplemental benefits payable after June 30, 2007, to retired employee beneficiaries of the state police pre-1987 retirement system established under IC 10-12-3.**

(b) The payment of a supplemental benefit recomputed under IC 10-12-5-3 and IC 10-12-5-4, both as amended by this act, for the period after June 30, 2007, and before the date on which the recomputed supplemental benefit is first paid, must be reduced by the amount of any supplemental benefit computed and paid after

June 30, 2007, under IC 10-12-5-3 and IC 10-12-5-4 before those sections were amended by this act.

SECTION 4. **An emergency is declared for this act.**

P.L.6-2008

[S.41. Approved February 22, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. "Acquiescence", for the purposes of IC 14-26-2, has the meaning set forth in IC 14-26-2-1.2.**

SECTION 2. IC 14-8-2-137 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 137. "Lake" has the following meaning:

(1) For purposes of IC 14-9-9 and IC 14-15, a natural or an artificial lake.

(2) For purposes of IC 14-26-2, the meaning set forth in IC 14-26-2-1.5.

~~(2)~~ **(3)** For purposes of IC 14-26-3, the meaning set forth in IC 14-26-3-1.

SECTION 3. IC 14-26-2-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.2. As used in this chapter, "acquiescence" means consent without conditions, tacit or passive compliance, or acceptance.**

SECTION 4. IC 14-26-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2008]: **Sec. 1.5. As used in this chapter, "lake" means a reasonably permanent body of water that:**

(1) existed on March 12, 1947;

(2) is substantially at rest in a depression in the surface of the earth that is naturally created;

(3) is of natural origin or part of a watercourse, including a watercourse that has been dammed; and

(4) covers an area of at least five (5) acres within the shoreline and water line, including bays and coves.

SECTION 5. IC 14-26-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) This section applies to a public freshwater lake, regulated or otherwise, that covers an area of at least ten (10) acres.

(b) A person may not order or recommend the:

(1) construction;

(2) reconstruction;

(3) recleaning; or

(4) repair;

of a ditch, dam, or other project that will affect or is likely to affect a lowering of the water level of the **public freshwater** lake.

SECTION 6. IC 14-26-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. Accretion rights in public freshwater lakes are limited to land from which the waters have receded or may recede from natural causes only. Accretion rights do not accrue to a riparian landowner as a consequence of lowering the **public freshwater** lake level by any of the following:

(1) Drainage.

(2) Extending the shoreline into the water of the **public freshwater** lake by filling the **public freshwater** lake with soil or any other substance.

(3) Extending the shoreline away from the **public freshwater** lake by excavating, dredging, or channeling through the shoreline.

SECTION 7. IC 14-26-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Notwithstanding any other provision of law but subject to section 11 of this chapter, the department may not authorize:

(1) the changing of the level;

(2) the dredging, other than to maintain channels or construct sea walls, beaches, or near-shore access improvements on a lot by lot basis; or

(3) the mining;

of a public freshwater lake without giving notice and the opportunity for a public hearing at the county seat of the county in which the **public freshwater** lake is located.

(b) The notice must:

(1) generally describe the project for which a permit has been requested to authorize;

(2) state that the public has a right to request that a hearing be held on the proposed project;

(3) state that persons interested in or affected by the proposed project may speak at the hearing; and

(4) be published two (2) times, seven (7) days apart, in two (2) daily newspapers in the county in which the **public freshwater** lake is located, in the manner prescribed by IC 5-3-1.

(c) If a hearing is requested within ten (10) days after the final publication of the notice, the department shall do the following:

(1) Hold a public hearing in the manner stated in the notice.

(2) Give notice of the date, time, and place of the hearing as prescribed in subsection (b).

(3) Consider the public comments concerning the proposed project before the department makes a decision concerning the proposal.

SECTION 8. IC 14-26-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The department may not issue a permit for the construction of a channel into a public freshwater lake unless:

(1) the channel follows the path of a stream already in existence; or

(2) the applicant proves that fifty-one percent (51%) of the property owners abutting the shoreline of the **public freshwater** lake approve of the channel construction.

(b) This section does not prevent the department from issuing a permit to construct small private drainage channels.

SECTION 9. IC 14-26-2-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 14.5. (a) For purposes of determining the acquiescence of a riparian owner to allow the public use of a lake, indicators of acquiescence include the following:**

(1) Evidence that the general public has used the lake for recreational purposes.

(2) Evidence that the riparian owner did not object to the operation by another person of a privately owned boat rental business, campground, or commercial enterprise that allowed nonriparian owners to gain access throughout the lake.

(3) A record of regulation of previous construction activities on the lake by the department or the department of conservation (before its repeal).

(b) Acquiescence does not exist if a lake has been adjudicated after March 12, 1947, to be a private lake and the department, or the department of conservation (before its repeal), was a party to the adjudication.

SECTION 10. IC 14-26-2-23, AS AMENDED BY P.L.152-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Over, along, or lakeward of the shoreline or water line of a public freshwater lake:

(A) excavate;

(B) place fill; or

(C) place, modify, or repair a temporary or permanent structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or water line; and

(B) within ten (10) feet landward of the shoreline or water line, as measured perpendicularly from the shoreline or water line;

of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or water line.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars ($100).

(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.

(3) A written acknowledgment from the landowner that any additional water area created under the project plan is part of the **public freshwater** lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

(1) The shoreline, water line, or bed of the **public freshwater** lake.

(2) The fish, wildlife, or botanical resources.

(3) The public rights described in section 5 of this chapter.

(4) The management of watercraft operations under IC 14-15.

(5) The interests of a landowner having property rights abutting the **public freshwater** lake or rights to access the **public freshwater** lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules under IC 4-22-2 to do the following:

(1) Assist in the administration of this chapter.

(2) Provide objective standards for issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:

(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the **public freshwater** lake or rights to access the **public freshwater** lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among persons with competing interests or between a person and the department. A rule adopted under this subsection must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

SECTION 11. IC 14-26-2-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 24. (a) Relying on recommendations of the department and the advisory council established by IC 14-9-6-1, the commission shall adopt, under IC 4-22-7-7(a)(5)(A), and maintain a nonrule policy statement that lists the public freshwater lakes in Indiana. For each public freshwater lake the statement must include the following information:**

(1) The name of the lake.

(2) The county and specific location within the county where the lake is located.

(b) A person may obtain administrative review from the commission for the listing or nonlisting of a lake as a public freshwater lake through a licensure action, status determination, or enforcement action under IC 4-21.5.

SECTION 12. IC 14-26-2-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) The owner or owners of the entire shoreline or water line of:**

(1) a lake;

(2) a pond; or

(3) another reasonably permanent body of water that is substantially at rest;

may petition the department to declare the body of water a public freshwater lake.

(b) If the department, in writing, grants the petition under subsection (a), the body of water becomes subject to this chapter.

P.L.7-2008
[S.88. Approved February 22, 2008.]

AN ACT concerning natural and cultural resources.

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

SECTION 1. P.L.35-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2008]: SECTION 1. (a) The lake management work group is established. The activities of the work group established by this SECTION must be directed to problems and issues associated with lakes that meet the definition of a public freshwater lake under IC 14-26-2-3.

(b) The work group consists of twenty-six (26) members appointed as follows:

(1) Four (4) members of the general assembly consisting of:

(A) two (2) members of the house of representatives who may not be members of the same political party, appointed by the speaker of the house of representatives; and

(B) two (2) members of the senate who may not be members of the same political party, appointed by the president pro tempore of the senate.

(2) Three (3) representatives of the department of natural resources, at least one (1) of whom must be an officer in the division of law enforcement, appointed by the governor.

(3) The commissioner of the department of environmental management or the commissioner's designee.

(4) One (1) representative of the Indiana Lake Management Society or a similar organization of citizens concerned about lakes, appointed by the governor.

(5) One (1) representative of the Natural Resources Conservation Service of the United States Department of Agriculture appointed by the governor upon the recommendation of the Natural Resources Conservation Service.

(6) One (1) representative of soil and water conservation districts organized under IC 14-32 or IC 13-3-1 or IC 14-32-3 (before their repeal), appointed by the governor.

(7) Ten (10) members appointed by the governor, each of whom is:

(A) a participant in lake related recreational activities;

(B) a resident of a lake area;

(C) the owner or operator of a lake related business; or

(D) interested in the natural environment of Indiana lakes.

(8) One (1) representative of the United States Army Corps of Engineers appointed by the governor upon the recommendation of the commander of the Louisville District of the United States Army Corps of Engineers.

(9) One (1) representative of an agricultural organization, appointed by the governor.

(10) One (1) representative of an environmental organization, appointed by the governor.

(11) Two (2) other individuals appointed by the governor as at-large members.

(c) When appointing two (2) members of the senate to the work group under subsection (b)(1)(B), the president pro tempore of the senate shall appoint one (1) senator to serve as the chairperson of the work group beginning July 1, ~~2006,~~ **2008,** and ending June 30, ~~2007.~~ **2009.**

(d) When appointing two (2) members of the house of representatives to the work group under subsection (b)(1)(A), the speaker of the house of representatives shall appoint one (1) representative to serve as chairperson of the work group:

(1) beginning July 1, 2007, and ending June 30, 2008; **and**

(2) beginning July 1, 2009, and ending June 30, 2010.

(e) The work group shall meet at the call of the chairperson but may not meet more than ~~three (3)~~ **four (4)** times each year.

(f) To fill the positions created by subsection (b)(7), the governor shall appoint at least one (1) resident to represent each congressional district in Indiana. Each individual who was appointed by the governor as a member of the work group under P.L.65-2000 (before its expiration) is appointed to serve on the work group until the governor appoints a successor.

(g) The work group is under the direction of the department of natural resources. The department may contract with a facilitator to facilitate the work of the work group. The department of natural resources shall staff the work group. Except as provided in subsection (m), per diem, mileage, travel allowances, and other expenses paid under this SECTION shall be paid from appropriations made to the department of natural resources.

(h) The work group shall do the following:

(1) Monitor, review, and coordinate the implementation of the work group's recommendations issued under P.L.239-1997 and P.L.65-2000.

(2) Facilitate collaborative efforts among commonly affected state, county, and local governmental entities in cooperation with lake residents and related organizations.

(3) Conduct public meetings to hear testimony and receive written comments concerning lake resource concerns and the implementation of the work group's recommendations.

(4) Develop proposed solutions to problems concerning the implementation of the work group's recommendations.

(5) Review, update, and coordinate the implementation of new and existing recommendations by communicating with the public, the general assembly, and other governmental entities concerning lake resources.

(6) Review and coordinate the development and maintenance of an Internet web site that includes information on the management of lake and watershed resources.

(7) Issue reports to the natural resources study committee when directed to do so.

(8) Review all funding that is used for Indiana's waterways, including potential funding sources that could be used by the general assembly to correct funding problems.

(9) Issue:

(A) an interim report before July 1, ~~2007;~~ **2009;** and

(B) a final report before July 1, ~~2008.~~ **2010.**

(i) The affirmative votes of a majority of the members appointed to the work group are required for the work group to take action on any measure, including final reports.

(j) The work group shall make its reports available to:

(1) the natural resources study committee;

(2) the department of natural resources;

(3) members of the house agriculture, natural resources, and rural development standing committee and the senate natural resources standing committee; and

(4) the public.

(k) Each member of the work group who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) Each member of the work group who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(m) Each member of the work group who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(n) This SECTION expires July 1, ~~2008.~~ **2010.**

P.L.8-2008
[S.156. Approved February 22, 2008.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.204-2007, SECTION 2, AS AMENDED BY P.L.233-2007, SECTION 1, AND AS AMENDED BY P.L.218-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 **or IC 16-41-2-1** that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by *or other date provided by* federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires**.**

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, ~~or~~ IC 4-33-4-14, *or IC 4-35-4-2.*

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15 *or IC 12-15-44-19(b).*

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the

rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 2. IC 16-41-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The state department may adopt rules under IC 4-22-2, **including emergency rules under IC 4-22-2-37.1,** that do the following:

(1) Define and classify the following:

(A) Communicable diseases.

(B) Other diseases that are a danger to health based upon the characteristics of the disease.

(2) Establish reporting, monitoring, and preventive procedures for communicable diseases.

SECTION 3. **An emergency is declared for this act.**

P.L.9-2008
[S.210. Approved February 22, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-4-7.2, AS ADDED BY P.L.149-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007 (RETROACTIVE)]: Sec. 7.2. (a) This section applies to a member of the Indiana state teachers' retirement fund after June 30, 2007.

(b) **Subject to subsection (g),** if a member is receiving a benefit from the fund and:

(1) the member's designated beneficiary dies;

(2) the member and the member's designated beneficiary are parties in an action for dissolution of marriage ~~under IC 31-15-2~~ in which a final order is issued after the member's first benefit payment is made; or

(3) the member marries after the member's first benefit payment is made, and:

(A) the member's designated beneficiary is not the member's current spouse; or

(B) the member has not designated a beneficiary;

the member may make the election described in subsection (c).

(c) A member described in subsection (b) may elect to:

(1) change the member's designated beneficiary or form of benefit under section 7(b) of this chapter; and

(2) receive an actuarially adjusted and recalculated benefit for the remainder of:

(A) the member's life; or

(B) the member's life and the life of the newly designated beneficiary.

(d) A member making the election under subsection (c) may not elect to change to a five (5) year guaranteed form of benefit under section 7(b) of this chapter.

(e) If a member elects a benefit under subsection (c)(2)(B), the member must indicate whether the newly designated beneficiary's benefit will equal:

(1) the member's full recalculated benefit;

(2) two-thirds (2/3) of the member's recalculated benefit; or

(3) one-half (1/2) of the member's recalculated benefit.

(f) The member bears the cost of recalculating a benefit under subsection (c)(2), and the cost shall be included in the actuarial adjustment.

(g) A member may not make the election under subsection (c) if a final order or property settlement in an action for dissolution of marriage:

(1) prohibits a change in the member's designated beneficiary; or

(2) provides a right to a survivor benefit to a person who would be removed as the designated beneficiary.

~~(g)~~ **(h)** Benefits may be recalculated under this section only to the extent permitted by the Internal Revenue Code and applicable regulations.

~~(h)~~ **(i)** Before implementing this section, the board of the Indiana state teachers' retirement fund may obtain any approvals that the board considers necessary or appropriate from the Internal Revenue Service.

SECTION 2. **An emergency is declared for this act.**

P.L.10-2008
[H.1017. Approved February 22, 2008.]

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

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

SECTION 1. IC 4-23-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) As used in this section, "district" means an area certified as an arts and cultural district under this section.**

(b) As used in this section, "unit" means a city, town, or county.

(c) The commission shall establish an arts and cultural district certification program.

(d) To have an area certified as a district, a unit must:

(1) apply to the commission on a form prescribed by the commission; and

(2) provide any proof the commission determines is necessary to certify a district.

Two (2) or more units may apply jointly for certification of a district that extends across a common boundary.

(e) The commission, after reviewing an application filed by a unit under subsection (d)(1), may certify an area as a district.

(f) The commission shall adopt rules under IC 4-22-2:

(1) to establish criteria for a unit wishing to have an area certified as a district; and

(2) that are necessary to carry out this section.

SECTION 2. **An emergency is declared for this act.**

P.L.11-2008
[H.1051. Approved February 22, 2008.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 20-47-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter, "qualified foundation" means:**

(1) a nonprofit charitable community foundation; or

(2) a public school endowment corporation.

SECTION 2. IC 20-47-1-6, AS ADDED BY P.L.45-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The governing body of a school corporation may annually donate an amount not to exceed twenty-five thousand dollars ($25,000) from the general fund of the school corporation to a ~~public school endowment corporation~~ **qualified foundation** under the following conditions:

(1) For every dollar that the school corporation donates to the ~~public school endowment corporation,~~ **qualified foundation,** a private individual or entity must donate at least one dollar ($1) to the ~~public school endowment corporation.~~ **qualified foundation:**

(A) for the benefit of the school corporation; and

(B) for the purposes designated by the school corporation for the school corporation's donation.

(2) The ~~public school endowment corporation~~ **qualified foundation** retains all rights to the donation, including investment powers, except as provided in subdivision (3).

(3) The ~~public school endowment corporation~~ **qualified foundation** agrees to do the following:

(A) Distribute the principal and income from the donation only to the school corporation as directed by resolution of the governing body of the school corporation.

(B) Return the donation to the general fund of the school corporation if the ~~public school endowment corporation.~~ **qualified foundation:**

(i) ceases to operate as a ~~public school endowment corporation;~~ **qualified foundation;**

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the governing body of the school corporation.

(C) Open the books of the ~~public school endowment corporation~~ **qualified foundation** for examination at the request of the state board of accounts to the extent necessary for the state board of accounts to determine the manner in which the school corporation's donation and any matching donations have been held or distributed.

(b) A school corporation may use distributions from a ~~public school endowment corporation~~ **qualified foundation** received under a resolution referred to in subsection (a)(3)(A) only for programs and activities that:

(1) enhance the quality of education; or

(2) extend learning opportunities;

for students of the school corporation.

(c) This section expires June 30, 2012.

P.L.12-2008
[S.133. Approved February 27, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-5-43 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1, 2008, shall be increased by:**

(1) two percent (2%) for members who retired after December 31, 1999; and

(2) two and one-half (2.5%) percent for members who retired before January 1, 2000.

(b) In addition to any other cost of living increase provided under this chapter, the pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who is a retired member of the fund with at least ten (10) years of creditable service may not be less than one hundred eighty dollars ($180).

(c) Subsection (b) does not apply to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) whose creditable service was earned only as an elected official.

(d) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 2. IC 5-10.3-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. Assignment of Benefits. A member or a beneficiary may not assign any payment except for:

(1) premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in whole or in part by:

(A) a state agency; **or**

(B) any association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of the retired members of the fund; and

(2) dues to any association which proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of the retired members of the fund.

SECTION 3. IC 5-10.2-5-34 IS REPEALED [EFFECTIVE JANUARY 1, 2009].

SECTION 4. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) Not later than December 1, 2008, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2008, and who is entitled to receive a monthly benefit on November 1, 2008. The amount shall be paid as a single check and is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	The Amount of the Check Is:
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	$50

At least 10 years, but less than 20 years	**$100**
At least 20 years, but less than 30 years	**$175**
At least 30 years	**$225**

(d) The creditable service used to determine the amount paid to a member (or to a survivor or beneficiary of the member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4, except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2009.

P.L.13-2008

[S.219. Approved February 27, 2008.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 4-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. It is the intent of this chapter that state offices be open and able to conduct public business at all times during an eight and one-half (8 1/2) hour working day. Each employee shall work for a full seven and one-half (7 1/2) hours each working day and provision for a one (1) hour lunch period shall be provided each employee. Lunch hours of employees shall be staggered to permit the conduct of business at all times during a working day. **Breaks shall be provided as set forth in IC 5-10-6-2.** It shall be lawful for state offices to close their doors for business from the close of the working day each Friday or in the event Friday is a legal holiday, then from the close of the working day on the Thursday which immediately precedes such legal holiday, until the commencement of the working day on the next following Monday, or in the event Monday is a legal holiday, then until the commencement of the working day on the Tuesday which

immediately follows such legal holiday; provided, however, that the state library may be kept open until noon Saturdays in the discretion of the Indiana library and historical board.

SECTION 2. IC 5-10-6-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2. (a) The state and political subdivisions of the state shall provide reasonable paid break time each day to an employee who needs to express breast milk for the employee's infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. The state and political subdivisions are not required to provide break time under this section if providing break time would unduly disrupt the operations of the state or political subdivisions.**

(b) The state and political subdivisions of the state shall make reasonable efforts to provide a room or other location, other than a toilet stall, in close proximity to the work area, where an employee described in subsection (a) can express the employee's breast milk in privacy. The state and political subdivisions shall make reasonable efforts to provide a refrigerator or other cold storage space for keeping milk that has been expressed. The state or a political subdivision is not liable if the state or political subdivision makes a reasonable effort to comply with this subsection.

SECTION 3. IC 20-33-3-30, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. (a) This section applies to occupations for which a child less than eighteen (18) years of age may be employed or allowed to work under this chapter but does not apply to children subject to:

(1) section 6 of this chapter; or

(2) section 29(2) or 29(3) of this chapter.

(b) A person, firm, limited liability company, or corporation that employs a child less than eighteen (18) years of age shall provide the child one (1) or two (2) rest breaks totaling at least thirty (30) minutes if the child is scheduled to work at least six (6) consecutive hours. **Breaks shall be provided as set forth in IC 5-10-6-2.**

SECTION 4. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2008]:

Chapter 14. Employee Breaks

Sec. 1. As used in this chapter, "employer" means a person or entity that employs twenty-five (25) or more employees.

Sec. 2. (a) To the extent reasonably possible, an employer shall provide a private location, other than a toilet stall, where an employee can express the employee's breast milk in privacy during any period away from the employee's assigned duties.

(b) To the extent reasonably possible, an employer shall:

(1) provide a refrigerator or other cold storage space for keeping milk that has been expressed; or

(2) allow the employee to provide the employee's own portable cold storage device for keeping milk that has been expressed until the end of the employee's work day.

(c) Except in cases of willful misconduct, gross negligence, or bad faith, an employer is not liable for any harm caused by or arising from either of the following that occur on the employer's premises:

(1) The expressing of an employee's breast milk.

(2) The storage of expressed milk.

SECTION 5. IC 34-30-2-11.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.2. IC 5-10-6-2 (Concerning employee breaks for nursing mothers).**

SECTION 6. IC 34-30-2-87.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 87.2. IC 22-2-14-2(c) (Concerning the expressing and storage of an employee's breast milk on an employer's premises).**

P.L.14-2008
[H.1046. Approved February 27, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-22-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a) This section does not apply to an individual issued an apprentice license under IC 14-22-12-1.7.**

~~(a)~~ **(b)** In addition to other requirements for obtaining a hunting license, a person born after December 31, 1986, must have successfully completed the course of instruction in hunter education offered by the department or the department's agent under IC 14-22-35.

~~(b)~~ **(c)** If an applicant for a hunting license who is subject to subsection ~~(a)~~ **(b)** requests that a hunter education course be offered in the applicant's county of residence, the department or the department's agent shall offer a hunting safety course under IC 14-22-35 in the applicant's county of residence not more than ninety-two (92) days after receiving a request.

SECTION 2. IC 14-22-12-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.7. (a) As used in this section, "apprentice hunter" means an individual who hunts under an apprentice hunting license issued under this section.**

(b) The department may issue an apprentice hunting license to a resident or nonresident in lieu of any hunting license authorized under section 1 of this chapter.

(c) The commission shall establish a fee to be paid by an applicant for an apprentice hunting license issued under this section.

(d) An apprentice hunter may hunt in Indiana without

completing the course of instruction in hunter education offered by the department or the department's agent under IC 14-22-35.

(e) An apprentice hunter must:

(1) comply with the requirements under this article and the rules adopted by the director; and

(2) while hunting be accompanied by an individual who:

(A) is at least eighteen (18) years of age; and

(B) either holds a valid hunting license issued under this chapter or is not required to have a hunting license under IC 14-22-11.

(f) An individual described in subsection (e)(2) who accompanies an apprentice hunter:

(1) must be in close enough proximity to monitor the apprentice hunter's activities and communicate with the apprentice hunter at all times; and

(2) may not accompany more than two (2) holders of an apprentice hunting license at one (1) time.

(g) An individual may not purchase more than three (3) apprentice hunting licenses of any type during the individual's lifetime.

P.L.15-2008

[H.1077. Approved February 27, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-18-8-1, AS AMENDED BY P.L.29-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The respective authorities of counties, townships, cities, and towns **each** may appropriate annually to one (1) ~~post, garrison, or camp~~ **or more posts, garrisons, or camps** of each of

the following organizations in the respective counties, townships, cities, or towns a sum ~~of not more than five hundred dollars ($500) to any post, garrison, or camp~~ to aid in defraying the expenses of Memorial Day:

(1) Veterans of Foreign Wars of the United States.

(2) United Spanish War Veterans.

(3) Disabled American Veterans of the World War.

(4) The American Legion.

(5) The Army and Navy Union of the United States of America.

(6) Marine Corps League.

(7) Veterans of World War I, Inc.

(8) American Veterans of World War II.

(9) Catholic War Veterans.

(10) Jewish War Veterans.

(11) American Ex-Prisoners of War.

(12) American Veterans of World War II, Korea, and Vietnam (AMVETS).

(13) American War Mothers.

(14) Blinded Veterans Association.

(15) Congressional Medal of Honor Society of the United States of America.

(16) Gold Star Wives of America, Inc.

(17) Legion of Valor of the U.S.A., Inc.

(18) Military Order of the Purple Heart of the U.S.A., Inc.

(19) Non Commissioned Officers Association (NCOA).

(20) Paralyzed Veterans of America.

(21) Pearl Harbor Survivors Association, Inc.

(22) Polish Legion of American Veterans, USA.

(23) Regular Veterans Association.

(24) The Retired Enlisted Association.

(25) U.S. Submarine Veterans of World War II.

(26) Vietnam Veterans of America, Inc.

(27) Women's Army Corps Veterans Association.

(b) In a county in which one (1) of the organizations listed in subsection (a) coordinates the Memorial Day celebration for the county, the county council may annually appropriate to the organization coordinating the celebration a sum ~~not to exceed the total amount to which the organizations listed in subsection (a) would be collectively~~

~~entitled to receive~~ to defray the expenses of the Memorial Day celebration.

(c) In a county in which there is a county Memorial Day society, county veterans' council, or any other county Memorial Day association not listed in subsection (a) that coordinates the Memorial Day celebration for the county instead of one (1) of the organizations listed in subsection (a), the county council may annually appropriate to one (1) society, council, or association, instead of the appropriations to the various organizations listed in subsection (a), a sum ~~of not more than the total amounts to which the organizations listed in subsection (a) would be collectively entitled,~~ to aid in defraying the expenses of the Memorial Day celebration.

(d) An appropriation under subsection (b) or (c) is in addition to any appropriation under subsection (a).

P.L.16-2008
[H.1275. Approved February 27, 2008.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 5-14-3-8, AS AMENDED BY P.L.215-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter:

(1) to inspect a public record; or

(2) to search for, examine, or review a record to determine whether the record may be disclosed.

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized

document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents ($0.10) per page, whichever is greater. A state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars ($5) per document. The fee for copying documents may not exceed the greater of:

(1) ten cents ($0.10) per page for copies that are not color copies or twenty-five cents ($0.25) per page for color copies; or

(2) the actual cost to the agency of copying the document.

As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

(1) a person is entitled to a copy of a public record under this chapter; and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form.

(2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.

(3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic map may be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

(1) Public agency program support.
(2) Nonprofit activities.
(3) Journalism.
(4) Academic research.

P.L.17-2008
[S.26. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-11-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

"Bodily injury" has the meaning set forth in IC 35-41-1-4.

"Dwelling" means a residence with at least one (1) dwelling unit as set forth in IC 22-12-1-4(a)(1)(B) and IC 22-12-1-5(a)(1).

"Hotels and motels" means buildings or structures kept, maintained, used, advertised, or held out to the public as inns or places where sleeping accommodations are furnished for hire for transient guests.

"Landlord" has the meaning set forth in IC 32-31-3-3.

"Owner" means a person having control or custody of any building covered by this chapter.

"Person" means an individual, corporation, partnership, association, or other legal entity.

"Rental premises" has the meaning set forth in IC 32-31-7-3.

"Rental unit" has the meaning set forth in IC 32-31-3-8.

"Smoke detector" means a device which senses visible or invisible particles of combustion and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association.

"Seasonally occupied dwellings" means hotels and motels open to

the public for occupancy by guests only during any period of time between April 15 and October 15 each year.

"Single level dwellings" means all single level (no more than one (1) level above ground) hotels and motels that have no interior corridors, and whose individual rooms have exterior exits.

"Tenant" has the meaning set forth in IC 32-31-3-10.

SECTION 2. IC 22-11-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) An owner of a hotel or motel who violates this chapter commits a Class A infraction, except as provided by subsection (b).

(b) An owner of a hotel or motel commits a Class D felony if:

(1) the owner knowingly or intentionally violates section 3 of this chapter; and

(2) bodily injury ~~(as defined in IC 35-41-1)~~ or loss of life occurs as a result of a fire in the building.

(c) **Except as provided in section 5.5 of this chapter,** a person who violates section 3.5 of this chapter commits a Class D infraction.

SECTION 3. IC 22-11-18-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. A landlord who violates section 3.5 of this chapter:**

(1) at the time the landlord delivers a rental unit to a tenant; or

(2) if the smoke detector is hard wired into the rental unit's electrical system, by failing to repair or replace the inoperable smoke detector not later than seven (7) days after receiving written notice by certified mail, return receipt requested, of the need to repair or replace the inoperable smoke detector under section 3.5(e)(2) of this chapter;

commits a Class B infraction. However, the offense is a Class A infraction if the landlord has a prior violation for an offense under this section.

SECTION 4. IC 32-31-5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7. (a) At the time a landlord delivers a rental unit to a tenant, the landlord shall require the tenant to acknowledge in writing that the rental unit is equipped with a functional smoke detector.**

(b) A landlord and a tenant may not waive, in a rental agreement or a separate writing, the requirements under IC 22-11-18-3.5 concerning smoke detectors.

SECTION 5. IC 32-31-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A tenant shall do the following:

(1) Comply with all obligations imposed primarily on a tenant by applicable provisions of health and housing codes.

(2) Keep the areas of the rental premises occupied or used by the tenant reasonably clean.

(3) Use the following in a reasonable manner:

(A) Electrical systems.

(B) Plumbing.

(C) Sanitary systems.

(D) Heating, ventilating, and air conditioning systems.

(E) Elevators, if provided.

(F) Facilities and appliances of the rental premises.

(4) Refrain from defacing, damaging, destroying, impairing, or removing any part of the rental premises.

(5) Comply with all reasonable rules and regulations in existence at the time a rental agreement is entered into. A tenant shall also comply with amended rules and regulations as provided in the rental agreement.

(6) Ensure that each smoke detector installed in the tenant's rental unit remains functional and is not disabled. If the smoke detector is battery operated, the tenant shall replace batteries in the smoke detector as necessary. If the smoke detector is hard wired into the rental unit's electrical system, and the tenant believes that the smoke detector is not functional, the tenant shall provide notice to the landlord under IC 22-11-18-3.5(e)(2).

This section may not be construed to limit a landlord's obligations under this chapter or IC 32-31-8.

SECTION 6. IC 36-8-17-8, AS AMENDED BY P.L.1-2006, SECTION 579, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. **Upon the request of an**

owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5. The fire department shall maintain a written report for each inspection. These reports shall be made available to the division upon request.

(b) The fire department serving an area that includes a city shall inspect every place and public way within the jurisdiction of the city, except the interiors of private dwellings, for compliance with the fire safety laws. **Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5.** Except as otherwise provided in the rules adopted by the commission, the fire chief of the fire department shall specify the schedule under which places and public ways are inspected and may exclude a class of places or public ways from inspection under this section, if the fire chief determines that the public interest will be served without inspection. The fire department shall maintain a written report for each inspection. The fire department shall submit monthly reports to the division, on forms prescribed by the division, containing the following information:

(1) The total number of inspections made.

(2) The total number of defects found, classified as required by the office.

(3) The total number of orders issued for correction of each class of defect.

(4) The total number of orders complied with.

(c) A volunteer fire department may carry out inspections under this section only through an individual who is certified under IC 22-14-2-6(c).

P.L.18-2008
[S.46. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-193.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 193.5. "Restrictive covenant" ~~for purposes of IC 13-14-2-6,~~ means, with respect to land, any deed restriction, restrictive covenant, environmental covenant, environmental notice, or other restriction or obligation that:

(1) limits the use of the land or the activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment;

(2) by its terms is intended to run with the land and be binding on successors;

(3) is recorded with the county recorder's office in the county in which the land is located; and

(4) explains how it can be modified or terminated.

SECTION 2. IC 32-20-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Marketable record title is subject to the following:

(1) All interests and defects that are inherent in the muniments of which the chain of record title is formed. However, a general reference in the muniments, or any one (1) of them, to:

(A) easements;

(B) use restrictions; or

(C) other interests created before the root of title;

is not sufficient to preserve them, unless specific identification is made in the muniments of a recorded title transaction that creates the easement, use restriction, or other interest.

(2) All interests preserved by:

(A) the filing of proper notice; or

(B) possession by the same owner continuously for at least fifty (50) years, in accordance with IC 32-20-4-1.

(3) The rights of any person arising from adverse possession or adverse user, if the period of adverse possession or adverse user was wholly or partly subsequent to the effective date of the root of title.

(4) Any interest arising out of a title transaction recorded after the effective date of the root of title from which the unbroken chain of title of record is started. However, the recording shall not revive or give validity to any interest that has been extinguished before the time of the recording by the operation of section 3 of this chapter.

(5) The exceptions stated in IC 32-20-4-3 concerning:

(A) rights of reversioners in leases;

(B) rights of any lessee in and to any lease; and

(C) easements and interests in the nature of easements.

(6) All interests of the department of environmental management ~~in land used for the disposal of hazardous wastes~~ arising from the recording of a restrictive covenant under ~~IC 13-22-3-3.~~ **IC 13.**

SECTION 3. [EFFECTIVE JULY 1, 2008] **(a) IC 32-20-3-2, as amended by this act, applies only to determinations of marketable record title (as defined in IC 32-20-2-2) after June 30, 2008.**

(b) Under IC 32-20-3-2, as amended by this act, marketable record title (as defined in IC 32-20-2-2) is subject to all interests of the department of environmental management arising from the recording of a restrictive covenant under IC 13, regardless of whether the recording occurred before July 1, 2008.

P.L.19-2008
[S.233. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-1-16.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 16.2. (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones.**

(b) As used in this section, "ringtones" means digitized sound files that:

(1) are downloaded onto a device; and

(2) may be used to alert the customer with respect to a communication.

SECTION 2. IC 6-2.5-1-16.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 16.3. "Digital audiovisual works" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.**

SECTION 3. IC 6-2.5-1-16.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 16.4. "Digital books" means works that are generally recognized in the ordinary and usual sense as books.**

SECTION 4. IC 6-2.5-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. **(a)** "Durable medical equipment" means equipment, including repair and replacement parts for the equipment, that:

(1) can withstand repeated use;

(2) is primarily and customarily used to serve a medical purpose;

(3) generally is not useful to a person in the absence of illness or injury; and

(4) is not worn in or on the body.

The term does not include mobility enhancing equipment.

(b) As used in this section, "repair and replacement parts" includes all components or attachments used in conjunction with durable medical equipment.

SECTION 5. IC 6-2.5-1-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 26.5. "Specified digital products" means electronically transferred:**

(1) digital audio works;

(2) digital audiovisual works; or

(3) digital books.

SECTION 6. IC 6-2.5-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 16. (a) As used in this section, "end user" does not include a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.**

(b) A person is a retail merchant making a retail transaction when the person:

(1) electronically transfers specified digital products to an end user; and

(2) grants the right of permanent use of the specified digital products to the end user that is not conditioned upon continued payment by the purchaser.

SECTION 7. IC 6-2.5-13-1, AS AMENDED BY P.L.145-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 1. (a) As used in this section, the terms "receive" and "receipt" mean:

(1) taking possession of tangible personal property;

(2) making first use of services; or

(3) taking possession or making first use of digital goods;

whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(b) This section:

(1) applies regardless of the characterization of a product as tangible personal property, a digital good, or a service;

(2) applies only to the determination of a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product; and

(3) does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(c) This section does not apply to sales or use taxes levied on the following:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of this article.

(2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g). The retail sale of these items shall be sourced according to the requirements of this article, and the lease or rental of these items must be sourced according to subsection (f).

(3) Telecommunications services, ancillary services, and Internet access service shall be sourced in accordance with IC 6-2.5-12.

(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(3) When subdivisions (1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subdivisions (1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser

obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When none of the previous rules of subdivision (1), (2), (3), or (4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

(e) The lease or rental of tangible personal property, other than property identified in subsection (f) or (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (d). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

(f) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location.

The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(g) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (d), notwithstanding the exclusion of lease or rental in subsection (d). As used in this subsection, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.

(2) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) registered through the International Registration Plan; and

(B) operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(4) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (1) through (3).

(h) This subsection applies to retail sales of floral products that occur before January 1, ~~2008.~~ **2010.** Notwithstanding subsection (d), a retail sale of floral products in which a florist or floral business:

(1) takes a floral order from a purchaser; and

(2) transmits the floral order by telegraph, telephone, or other

means of communication to another florist or floral business for delivery;

is sourced to the location of the florist or floral business that originally takes the floral order from the purchaser.

SECTION 8. **An emergency is declared for this act.**

P.L.20-2008

[S.249. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-31-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The commission shall do the following:

(1) Develop and promote, in cooperation with state, regional, and local public and private organizations, agencies, and persons, a statewide program for the provision of emergency medical services that must include the following:

(A) Preparation of state, regional, and local emergency ambulance service plans.

(B) Provision of consultative services to state, regional, and local organizations and agencies in developing and implementing emergency ambulance service programs.

(C) Promotion of a statewide system of emergency medical service facilities by developing minimum standards, procedures, and guidelines in regard to personnel, equipment, supplies, communications, facilities, and location of such centers.

(D) Promotion of programs for the training of personnel providing emergency medical services and programs for the

education of the general public in first aid techniques and procedures. The training shall be held in various local communities of the state and shall be conducted by agreement with publicly and privately supported educational institutions or hospitals licensed under IC 16-21, wherever appropriate.

(E) Promotion of coordination of emergency communications, resources, and procedures throughout Indiana and, in cooperation with interested state, regional, and local public and private agencies, organizations, and persons, the development of an effective state, regional, and local emergency communications system.

(F) Organizing and sponsoring a statewide emergency medical services conference to provide continuing education for persons providing emergency medical services.

(2) Regulate, inspect, and certify services, facilities, and personnel engaged in providing emergency medical services as provided in this article.

(3) Adopt rules required to implement an approved system of emergency medical services.

(4) Adopt rules concerning triage and transportation protocols for the transportation of trauma patients consistent with the field triage decision scheme of the American College of Surgeons Committee on Trauma.

~~(4)~~ **(5)** Apply for, receive, and accept gifts, bequests, grants-in-aid, state, federal, and local aid, and other forms of financial assistance for the support of emergency medical services.

~~(5)~~ **(6)** Employ necessary administrative staff.

P.L.21-2008
[S.250. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-17-9-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.3. As used in this chapter, "director" refers to the director of veterans' affairs appointed under IC 10-17-1-5.**

SECTION 2. IC 10-17-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]**: Sec. 0.5. As used in this chapter, "home" refers to the Indiana Veterans' Home.**

SECTION 3. IC 10-17-9-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.8. As used in this chapter, "superintendent" refers to the superintendent of the Indiana Veterans' Home appointed under section 3.5 of this chapter.**

SECTION 4. IC 10-17-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The conduct and maintenance of the Indiana Veterans' Home, located near Lafayette in Tippecanoe County, Indiana, are governed by this chapter. ~~and IC 16-19-6.~~

SECTION 5. IC 10-17-9-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) The director shall appoint the superintendent of the Indiana Veterans' Home. In appointing the superintendent, the director shall give preference to an honorably discharged veteran of the armed forces of the United States.**

(b) The superintendent may be removed only by the director.

(c) The superintendent is administratively responsible to the director.

(d) The director shall determine the superintendent's salary, subject to the approval of the governor and the budget agency.

SECTION 6. IC 10-17-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The superintendent of the Indiana Veterans' Home: ~~subject to applicable orders and rules made by the administrative unit for special institutions of the state department of health.~~

(1) has the immediate charge and management of the institution;

(2) directs and controls the resident employees; and

(3) superintends the **medical and physical** care, **rehabilitation,** and management of the members in the home.

SECTION 7. IC 10-17-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a)~~ **The superintendent may not appoint or employ** a person ~~may not be appointed or employed~~ in an office or a place in the ~~institution by the superintendent of the~~ Indiana Veterans' Home because of the political views or affiliation of the appointee or employee or for a reason other than capacity and fitness for the duties to be performed by the appointee or employee. However, among applicants for appointment found capable and fit, preference shall be given to an honorably discharged military veteran and the spouse, widow, widower, mother, and child of an honorably discharged military veteran.

~~(b) In appointing a candidate for the position of superintendent of the Indiana Veterans' Home, the state health commissioner shall give preference to a person who has been honorably discharged after service in the armed forces of the United States.~~

SECTION 8. IC 10-17-9-7, AS AMENDED BY P.L.99-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who have a disability or are destitute are eligible for admission to the home:

(1) An honorably discharged member of the armed forces who has served with the United States in any of its wars.

(2) An honorably discharged member of the armed forces who has served in an authorized campaign of the United States and who has a service connected disability, as evidenced by a pension certificate or the award of compensation.

(3) The spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(4) The surviving spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(b) The ~~administrative head of the administrative unit for special institutions of the state department of health or its successor~~ **department of veterans' affairs** shall adopt rules concerning admission to the home.

(c) In adopting rules governing the admission, maintenance, and discharge of members of the ~~veterans'~~ home, the ~~administrative head of the administrative unit for special institutions of the state department of health or its successor~~ **department of veterans' affairs** may establish a fund called the veterans' home comfort and welfare fund. The ~~administrative head~~ **director** shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The ~~administrative head~~ **director** shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.

(d) A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the Indiana Veterans' Home.

(e) Preference under this section may be given to a person who served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5) years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.

SECTION 9. IC 10-17-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The billing and collection of the maintenance cost of a member under section 8 of this chapter shall be made by the superintendent of the Indiana Veterans'

Home based on the per capita cost for the preceding fiscal year.

(b) All money collected shall be deposited in the veterans' home comfort and welfare fund. The fund shall be used in part by the ~~state health commissioner~~ **superintendent** for the comfort and welfare of the members and in part to reimburse the state general fund in an amount specified by the general assembly.

(c) Excess money in the veterans' home comfort and welfare fund shall be placed in the veterans' home building fund.

(d) The fund shall be used for new construction, maintenance, remodeling, and repair of the buildings at the Indiana Veterans' Home.

SECTION 10. IC 10-17-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The superintendent of the Indiana Veterans' Home, with the approval of the ~~state health commissioner,~~ **director,** may accept payment at a lesser rate than prescribed in section 8 of this chapter. The superintendent of the Indiana Veterans' Home, in determining whether or not to accept the lesser amount, shall consider the amount of money necessary to maintain or support a dependent of the member. An agreement to accept a lesser amount is subject to cancellation or modification at any time by the superintendent of the Indiana Veterans' Home with the approval of the ~~state health commissioner.~~ **director.**

(b) A member who is issued a statement of a sum due as maintenance charges may petition the superintendent of the Indiana Veterans' Home for a release from or modification of the statement. The superintendent shall submit a written statement of the facts to the ~~state health commissioner~~ **director** for a final determination.

SECTION 11. IC 10-17-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The superintendent of the Indiana Veterans' Home, with the approval of the ~~state health commissioner,~~ **director,** may adopt a standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home. A member shall receive at least thirty dollars ($30) per month for personal needs before a maintenance charge is levied against current income.

(b) The monthly maintenance charge may not exceed one-twelfth (1/12) of the annual per capita cost of the preceding year.

(c) The superintendent may adjust the standard for determining the lesser rate to provide that in the case of married members with the

spouses residing at the home this standard will allow at least forty dollars ($40) to be deducted from income by the member before the charge for maintenance is applied.

(d) The superintendent, in adopting the standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home, shall take into account as current income:

(1) a pension;

(2) compensation or income from any source; and

(3) benefits from:

(A) the federal Social Security Administration;

(B) the railroad retirement law; or

(C) a retirement annuity or insurance annuity.

(e) The agreement to accept a lesser rate from current income does not relieve the estate of the member of the charge for the full per capita cost for the period the member resided in the home. However, the claim for the full per capita cost will not be filed or allowed if there is a surviving spouse, dependent child less than eighteen (18) years of age, or dependent parent.

SECTION 12. IC 10-17-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) If space is available, the superintendent of the Indiana Veterans' Home, with the approval of the ~~state health commissioner,~~ **director,** may accept a veteran who is:

(1) otherwise eligible for admission to the home;

(2) in need of nursing home care; and

(3) transferred at the request of the United States Department of Veterans' Affairs from one (1) of its facilities.

(b) The United States Department of Veterans' Affairs under United States Department of Veterans' Affair's regulations shall award the cost of care to the home. A rate of charge described in section 8 of this chapter may not be used to determine the cost of care under this section.

SECTION 13. IC 10-17-9-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. IC 4-13-2 applies to the Indiana Veterans' Home.**

SECTION 14. IC 10-17-9-18 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18. (a) The superintendent shall furnish an individual public official bond in an amount determined by the director, payable to the state and conditioned upon the faithful performance of the superintendent's duties.**

(b) A bond required under this section is subject to the approval of the insurance commissioner and shall be filed in the office of the secretary of state.

SECTION 15. IC 10-17-9-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) The Indiana Veterans' Home shall post a notice that a resident, the legal representative of a resident, or another individual designated by a resident may request, from the individual in charge of each shift, information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:**

(1) wing of;

(2) unit of; and

(3) other area as routinely designated by;

the Indiana Veterans' Home.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent; and

(B) toll free telephone number for filing complaints with the department of veterans' affairs.

(4) State that if a resident, the legal representative of a resident, or another individual designated by a resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:

(A) Contact the superintendent.

(B) File a complaint with the department of veterans' affairs using the department's toll free telephone number.

(c) The department of veterans' affairs may adopt rules under IC 4-22-2 to carry out this section.

SECTION 16. IC 10-17-9-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20. (a) The Indiana Veterans' Home advisory committee is established.**

(b) The advisory committee consists of eight (8) members appointed by the governor and must include the following:

(1) One (1) member who is a licensed physician.

(2) One (1) member who is a member of the general assembly from the district in which the Indiana Veterans' Home is located.

(3) The director of veterans' affairs or the director's designee.

(c) The term of a member, other than a member who is a member of the general assembly, is four (4) years. A member of the general assembly appointed under this section serves until the end of the member's current legislative term. The governor may remove a member of the advisory committee for cause. The governor shall fill a vacancy in the membership of an advisory committee for the unexpired term of the vacating member.

(d) The advisory committee shall hold at least one (1) regular meeting in each calendar quarter and may hold special meetings upon the call of the superintendent.

(e) The members of the advisory committee shall elect a chairperson and a secretary.

(f) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the advisory committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of

administration and approved by the budget agency.

(h) Each member of the advisory committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(i) The advisory committee shall act in an advisory capacity to the superintendent and to the director concerning ways to improve the Indiana Veterans' Home and the care of its residents.

SECTION 17. IC 16-19-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The state health commissioner has complete administrative control and responsibility for the ~~following special institutions: (1) Silvercrest Children's Development Center. (2)~~ Indiana Soldiers' and Sailors' Children's Home.

~~(3) Indiana Veterans' Home.~~

SECTION 18. IC 16-19-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) There is created an advisory committee for ~~each special institution designated in section~~ **the Indiana Soldiers' and Sailors' Children's Home.** ~~5 of this chapter.~~

(b) The **eight (8)** members of the ~~following~~ advisory ~~committees~~ **committee** shall be appointed by the governor as follows:

~~(1) The Silvercrest Children's Development Center advisory committee consists of seven (7) members, one (1) of whom must be a licensed physician and one (1) of whom must be a state legislator from the district in which the center is located.~~

~~(2) The Indiana Soldiers' and Sailors' Children's Home advisory committee consists of eight (8) members, one (1) of whom must be a licensed physician, one (1) of whom must be a state legislator from the district in which the home is located, and one (1) of whom is the director of veterans' affairs or the director's designee.~~

~~(3) The Indiana Veterans' Home advisory committee consists of eight (8) members, one (1) of whom must be a licensed physician, one (1) of whom must be a state legislator from the district in which the home is located, and one (1) of whom is the director of veterans' affairs or the director's designee.~~

(1) One (1) must be a licensed physician.

(2) One (1) must be a state legislator from the district in which the home is located.

(3) One (1) must be the director of veterans' affairs or the director's designee.

(c) Except for a member who is a state legislator, the term of the members is four (4) years. A state legislator appointed under this section serves until the end of the legislator's current legislative term. A member of ~~an~~ **the** advisory committee may be removed by the governor for cause, and a vacancy in the membership of ~~an~~ **the** advisory committee shall be filled by the governor for the unexpired term of the vacating member.

(d) The advisory committee shall hold at least one (1) regular meeting in each quarter of the calendar year and may hold special meetings considered necessary and expedient by the superintendent of ~~each advisory committee's respective institutions.~~ **the institution.**

(e) At the first meeting of ~~an~~ **the** advisory committee, which shall be called by the superintendent within ten (10) days after the appointment of the advisory committee members, and annually within the same time thereafter, the advisory committee shall meet and organize by electing a chairman and a secretary from the membership of the committee.

(f) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) Each member of the advisory committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the advisory committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on

interim study committees established by the legislative council.

(i) The advisory committees shall act in an advisory capacity to the ~~superintendents of each advisory committee's respective institutions~~ **superintendent of the institution** and to the state health commissioner in the state health commissioner's capacity as administrative head of the administrative unit for **the** special ~~institutions~~ **institution** concerning ways and means of improving the special ~~institutions~~ **institution** and the care of the residents in the special ~~institutions.~~ **institution.**

(j) ~~Each~~ **The** advisory committee shall select one (1) of its members to serve as a member of the commission for special institutions. The name of the person selected shall be submitted to the governor and to the commission for special institutions.

(k) Whenever the term of ~~any~~ **a** member selected by ~~an~~ **the** advisory committee to serve on the commission for special institutions expires or a vacancy occurs for any reason, the advisory committee shall select a member of the committee to fill the vacancy. The name of that person shall be submitted to the governor and to the administrative unit for special institutions.

SECTION 19. [EFFECTIVE JULY 1, 2008] **(a) The powers and duties of the state department of health relating to the Indiana Veterans' Home are transferred to the department of veterans' affairs on July 1, 2008.**

(b) The rules adopted before July 1, 2008, by the state department of health concerning the Indiana Veterans' Home are considered, after June 30, 2008, rules of the department of veterans' affairs until the department of veterans' affairs adopts replacement rules.

(c) On July 1, 2008, the department of veterans' affairs becomes the owner of all property and obligations of the state department of health relating to the Indiana Veterans' Home. Any amounts owed to the state department of health before July 1, 2008, under an institution or a program administered after June 30, 2008, by the department of veterans' affairs are payable to the department of veterans' affairs.

(d) Any appropriations to the state department of health relating to the Indiana Veterans' Home and any funds relating to the Indiana Veterans' Home, including the veterans' home comfort

and welfare fund and the veterans' home building fund, under the control and supervision of the state department of health on June 30, 2008, are transferred to the control or supervision of the department of veterans' affairs on July 1, 2008.

(e) The legislative services agency shall prepare legislation for introduction in the 2009 regular session of the general assembly to organize and correct statutes affected by the transfer of powers and duties to the department of veterans' affairs by this act.

(f) This SECTION expires January 1, 2009.

P.L.22-2008
[S.305. Approved March 3, 2008.]

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

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

SECTION 1. IC 35-48-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The controlled substances listed in this section are included in schedule I.

(b) Opiates. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted by rule of the board or unless listed in another schedule, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) (9815)
Acetylmethadol (9601)
Allylprodine (9602)
Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) (9832)
Alphacetylmethadol (9603)

Alphameprodine (9604)
Alphamethadol (9605)
Alphamethylfentanyl ~~(9614)~~ **(9814)**
Benzethidine (9606)
Beta-hydroxy-3-methylfentanyl (9831). Other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide.
Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide) (9830)
Betacetylmethadol (9607)
Betameprodine (9608)
Betamethadol (9609)
Betaprodine (9611)
Clonitazene (9612)
Dextromoramide (9613)
Diampromide (9615)
Diethylthiambutene (9616)
Difenoxin (9168)
Dimenoxadol (9617)
Dimepheptanol (9618)
Dimethylthiambutene (9619)
Dioxaphetyl butyrate (9621)
Dipipanone (9622)
Ethylmethylthiambutene (9623)
Etonitazene (9624)
Etoxeridine (9625)
Furethidine (9626)
Hydroxypethidine (9627)
Ketobemidone (9628)
Levomoramide (9629)
Levophenacylmorphan (9631)
3-Methylfentanyl [N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenyl-propanimide](9813)
3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) (9833)
MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) (9961)
Morpheridine (9632)
N-[1-benzyl-4-piperidyl]-N-phenylpropanamide

(benzylfentanyl), including any isomers, salts, or salts of isomers (9818)

N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), including any isomers, salts, or salts of isomers (9834)

Noracymethadol (9633)

Norlevorphanol (9634)

Normethadone (9635)

Norpipanone (9636)

Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide (9812)

Phenadoxone (9637)

Phenampromide (9638)

Phenomorphan (9647)

Phenoperidine (9641)

PEPAP [1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine] (9663)

Piritramide (9642)

Proheptazine (9643)

Properidine (9644)

Propiram (9649)

Racemoramide (9645)

Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) (9835)

Tilidine (9750)

Trimeperidine (9646)

(c) Opium derivatives. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted by rule of the board or unless listed in another schedule, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine (9319)

Acetyldihydrocodeine (9051)

Benzylmorphine (9052)

Codeine methylbromide (9070)

Codeine-N-Oxide (9053)

Cyprenorphine (9054)

Desomorphine (9055)

Dihydromorphine (9145)

Drotebanol (9335)
Etorphine (except hydrochloride salt) (9056)
Heroin (9200)
Hydromorphinol (9301)
Methyldesorphine (9302)
Methyldihydromorphine (9304)
Morphine methylbromide (9305)
Morphine methylsulfonate (9306)
Morphine-N-Oxide (9307)
Myrophine (9308)
Nicocodeine (9309)
Nicomorphine (9312)
Normorphine (9313)
Pholcodine (9314)
Thebacon (9315)

(d) Hallucinogenic substances. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic, psychedelic, or psychogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted by rule of the board or unless listed in another schedule, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (7473). Other name: TCPy.

~~(1)~~ **(2)** 4-Bromo-2, 5-Dimethoxyamphetamine (7391). Some trade or other names: 4-Bromo-2, 5-Dimethoxy-a-methylphenethylamine; 4-Bromo-2, 5-DMA.

(3) 4-Bromo-2, 5-dimethoxphenethylamine (7392). Some trade or other names:
2-[4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.

(4) 2, 5-Dimethoxy-4-ethylamphet-amine (7399). Other name: DOET.

(5) 2, 5-Dimethoxy-4-(n)-propylthiophenethylamine (7348). Other name: 2C-T-7.

~~(2)~~ **(6)** 2, 5-Dimethoxyamphetamine (7396). Some trade or other names: 2, 5-Dimethoxy-a-methylphenethylamine; 2, 5-DMA.

~~(3)~~ **(7)** 4-Methoxyamphetamine (7411). Some trade or other

names: 4-Methoxy-a-methylphenethylamine; Paramethoxyamphetamine; PMA.

~~(4)~~ **(8)** 5-Methoxy-3, 4-methylenedioxy amphetamine (7401). Other Name: MMDA.

(9) 5-Methoxy-N, N-diisopropyltryptamine, including any isomers, salts, or salts of isomers (7439). Other name: 5-MeO-DIPT.

~~(5)~~ **(10)** 4-methyl-2, 5-dimethoxyamphetamine (7395). Some trade and other names: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP.

~~(6)~~ **(11)** 3, 4-methylenedioxy amphetamine (7400). Other name: MDA.

(12) 3,4-methylenedioxy-N-ethylamphetamine (7404). Other names: N-ethyl-alpha-methyl-3,4(methylenedioxy) phenethylamine; N-ethyl MDA; MDE; and MDEA.

~~(7)~~ **(13)** 3, 4-methylenedioxymethamphetamine (MDMA) (7405).

~~(8)~~ **(14)** 3, 4, 5-trimethoxy amphetamine (7390). Other name: TMA.

(15) Alpha-ethyltryptamine (7249). Some trade and other names: Etryptamine; Monase; [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; [alpha]-ET; and AET.

(16) Alpha-methyltryptamine (7432). Other name: AMT.

~~(9)~~ **(17)** Bufotenine (7433). Some trade and other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminonethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.

~~(10) Dimethyltryptamine~~ **(18) Diethyltryptamine** (7434). Some trade or other names: ~~N, N-Diethyltryptamine;~~ **N, N-Diethyltryptamine;** DET.

~~(11) Diethyltryptamine~~ **(19) Dimethyltrytamine** (7435). Some trade or other names: DMT.

~~(12)~~ **(20)** Ibogaine (7260). Some trade and other names: 7-Ethyl-6, 6b, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1', 2': 1, 2, azepino 4, 5-b) indole; tabernanthe iboga.

~~(13)~~ **(21)** Lysergic acid diethylamide (7315). Other name: LSD.

~~(14)~~ **(22)** Marijuana (7360).

~~(15)~~ **(23)** Mescaline (7381).

~~(16)~~ **(24)** Parahexyl (7374). Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-Tetrahydro-6, 6, 9-trimethyl-6H-dibenzo (b,d) pyran; Snyhexyl.

~~(17)~~ **(25)** Peyote (7415), including:

(A) all parts of the plant that are classified botanically as lophophora williamsii lemaire, whether growing or not;

(B) the seeds thereof;

(C) any extract from any part of the plant; and

(D) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.

~~(18)~~ **(26)** N-ethyl-3-piperidyl benzilate (7482). Other name: DMZ.

(27) N-hydroxy-3,4-methylenedioxyamphetamine (7402). Other names: N-hydroxy-alpha-methyl-3,4 (methylenedioxy)phenethylamine; and N-hydroxy MDA.

~~(19)~~ **(28)** N-methyl-3-piperidyl benzilate (7484). Other name: LBJ.

~~(20)~~ **(29)** Psilocybin (7437).

~~(21)~~ **(30)** Psilocyn (7438).

~~(22)~~ **(31)** Tetrahydrocannabinols (7370), including synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:

(A) π^1 cis or trans tetrahydrocannabinol, and their optical isomers;

(B) π^6 cis or trans tetrahydrocannabinol, and their optical isomers; and

(C) $\pi^{3,}{}_4$ cis or trans tetrahydrocannabinol, and their optical isomers.

Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered. Other name: THC.

~~(23)~~ **(32)** Ethylamine analog of phencyclidine (7455). Some trade or other names: N-Ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)

ethylamine; cyclohexamine; PCE.

~~(24)~~ **(33)** Pyrrolidine analog of phencyclidine (7458). Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCP_y; PHP.

~~(25)~~ **(34)** Thiophene analog of phencyclidine (7470). Some trade or other names: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP.

(e) Depressants. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Gamma-hydroxybutyric acid (other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate) (2010)

Mecloqualone (2572)

Methaqualone (2565)

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

([+/-]) cis-4-methylaminorex ([+/-])cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) (1590)

Aminorex (1585). Other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine.

Cathinone (1235). Some trade or other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone.

Fenethylline (1503)

N-Benzylpiperazine (7493). Other names: BZP; and 1-benzylpiperazine.

N-ethylamphetamine (1475)

Methcathinone (1237) Some other trade names: 2-Methylamino-1-Phenylpropan-I-one; Ephedrone; Monomethylpropion; UR 1431.

N, N-dimethylamphetamine (1480). Other names: N, N-alpha-trimethyl-benzeneethanamine; and N, N-alpha-trimethylphenethylamine.

SECTION 2. IC 35-48-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The controlled substances listed in this section are included in schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, naltrexone, and their respective salts but including:

(A) raw opium (9600);

(B) opium extracts (9610);

(C) opium fluid extracts (9620);

(D) powdered opium (9639);

(E) granulated opium (9640);

(F) tincture of opium (9630);

(G) codeine (9050);

(H) dihydroetorphine (9334);

~~(H)~~ **(I)** ethylmorphine (9190);

~~(I)~~ **(J)** etorphine hydrochloride (9059);

~~(J)~~ **(K)** hydrocodone (9193);

~~(K)~~ **(L)** hydromorphone (9150);

~~(L)~~ **(M)** metopon (9260);

~~(M)~~ **(N)** morphine (9300);

~~(N)~~ **(O)** oxycodone (9143);

~~(O)~~ **(P)** oxymorphone (9652); and

~~(P)~~ **(Q)** thebaine (9333).

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Cocaine (9041).

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy) (9670).

(c) Opiates. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alfentanil (9737)
Alphaprodine (9010)
Anileridine (9020)
Bezitramide (9800)
Bulk dextropropoxyphene (nondosage forms) (9273)
Carfentanil (9743)
Dihydrocodeine (9120)
Diphenoxylate (9170)
Fentanyl (9801)
Isomethadone (9226)
Levo-alphacetylmethadol (9648). Other names: Levo-alpha-acetylmethadol; levomethadyl acetate; and LAAM.
Levomethorphan (9210)
Levorphanol (9220)
Metazocine (9240)
Methadone (9250)
Methadone-Intermediate, 4-cyano-2-dimethyl-amino-4, 4-diphenyl butane (9254)
Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane- carboxylic acid (9802)
Pethidine (Meperidine) (9230)
Pethidine-Intermediate- A, 4-cyano-1-methyl-4-phenylpiperidine (9232)
Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate (9233)
Pethidine-Intermediate-C,1-methyl-4-phenylpiperidine-4-carbo xylic acid (9234)
Phenazodine (9715)
Piminodine (9730)
Racemethorphan (9732)

Racemorphan (9733)

Remifentanil (9739)

Sufentanil (9740)

(d) Stimulants. Any material compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).

(2) Methamphetamine, including its salts, isomers, and salts of its isomers (1105).

(3) Phenmetrazine and its salts (1631).

(4) Methylphenidate (1724).

(e) Depressants. Unless specifically excepted by rule of the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Amobarbital (2125)

~~Gamma hydroxybutyrate~~

Glutethimide (2550)

Pentobarbital (2270)

Phencyclidine (7471)

Secobarbital (2315)

(f) Immediate precursors. Unless specifically excepted by rule of the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone (8501). Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine (7460); or

(B) 1-piperidinocyclohexanecarbonitrile (PCC) (8603).

(g) Hallucinogenic substances:

~~Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product (7369).~~

Nabilone (7379). Other name: (+/-)-trans-3-(1,1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo [b,d] pyran-9-one.

SECTION 3. IC 35-48-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The controlled substances listed in this section are included in schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on April 1, 1986, as excepted compounds under 21 CFR 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or that is the same except that it contains a lesser quantity of controlled substances (1405).

(2) Benzphetamine (1228).

(3) Chlorphentermine (1645).

(4) Clortermine (1647).

(5) Phendimetrazine (1615).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(A) amobarbital ~~(2125),~~ **(2126);**

(B) secobarbital ~~(2315),~~ **(2316);**

(C) pentobarbital ~~(2270),~~ **(2271);** or

(D) any of their salts;

and one (1) or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(A) amobarbital ~~(2125),~~ **(2126);**

(B) secobarbital ~~(2315),~~ **(2316);**

(C) pentobarbital ~~(2270),~~ **(2271);** or

(D) any of their salts;

and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt thereof (2100).

(4) Chlorhexadol (2510).

~~(5) Glutethimide (2550).~~

(5) Embutramide (2020).

(6) Lysergic acid (7300).

(7) Lysergic acid amide (7310).

(8) Methyprylon (2575).

(9) Sulfondiethylmethane (2600).

(10) Sulfonethylmethane (2605).

(11) Sulfonmethane (2610).

(12) A combination product containing ~~tiletimine~~ **Tiletamine** and Zolazepam **or any salt thereof** (Telazol) (7295).

(13) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq. (2012).

(d) Nalorphine (a narcotic drug) (9400).

(e) Narcotic Drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following limited quantities:

(1) Not more than 1.8 grams of codeine, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium (9803).

(2) Not more than 1.8 grams of codeine, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9804).

(3) Not more than 300 milligrams of dihydrocodeinone, per 100

milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium (9805).

(4) Not more than 300 milligrams of dihydrocodeinone, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts (9806).

(5) Not more than 1.8 grams of dihydrocodeine, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9807).

(6) Not more than 300 milligrams of ethylmorphine, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9808).

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9809).

(8) Not more than 50 milligrams of morphine, per 100 milliliters or per 100 grams with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts (9810).

(9) Buprenorphine (9064).

(f) Anabolic steroid (as defined in 21 U.S.C. 802(41)(A) and 21 U.S.C. 802(41)(B)).

(g) The board shall except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) through (e) from the application of any part of this article if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(h) Any material, compound, mixture, or preparation which contains any quantity of Ketamine **(7285).**

(i) Hallucinogenic substances:

Dronabinol (synthetic) in sesame oil and encapsulated in a soft

gelatin capsule in a United States Food and Drug Administration approved drug product (7369).

SECTION 4. IC 35-48-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The controlled substances listed in this section are included in schedule IV.

(b) Narcotic drugs. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following limited quantities:

(1) Not more than 1 milligram of difenoxin (9618) and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha- (+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane ~~(9273).~~ **(9278).**

(c) Depressants. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Alprazolam (2882).
Barbital (2145).
Bromazepam (2748).
Camazepam (2749).
Carisoprodol.
Chloral betaine (2460).
Chloral hydrate (2465).
Chlordiazepoxide (2744).
Clobazam (2751).
Clonazepam (2737).
Clorazepate (2768).
Clotiazepam (2752).
Cloxazolam (2753).
Delorazepam (2754).
Diazepam (2765).
Dichloralphenazone (2467).
Estazolam (2756).
Ethchlorvynol (2540).

Ethinamate (2545).
Ethyl loflazepate (2758).
Fludiazepam (2759).
Flunitrazepam (2763).
Flurazepam (2767).
Halazepam (2762).
Haloxazolam (2771).
Ketazolam (2772).
Loprazolam (2773).
Lorazepam (2885).
Lormetazepam (2774).
Mebutamate (2800).
Medazepam (2836).
Meprobamate (2820).
Methohexital (2264).
Methylphenobarbital (mephobarbital) (2250).
Midazolam (2884).
Nimetazepam (2837).
Nitrazepam (2834).
Nordiazepam (2838).
Oxazepam (2835).
Oxazolam (2839).
Paraldehyde (2585).
Petrichloral (2591).
Phenobarbital (2285).
Pinazepam (2883).
Prazepam (2764).
Quazepam (2881).
Temazepam (2925).
Tetrazepam (2886).
Triazolam (2887).
Zaleplon (2781).
Zolpidem (Ambien) (2783).
Zopiclone (2784).

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts

of isomers is possible.

Fenfluramine (1670).

(e) Stimulants. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Cathine ((+)-norpseudoephedrine) (1230).

~~(1)~~ Diethylpropion ~~(1608).~~ **(1610).**

Fencamfamin (1760).

Fenproporex (1575).

~~(2)~~ Mazindol (1605).

Mefenorex (1580).

Modafinil (1680).

~~(3)~~ Phentermine (1640).

~~(4)~~ Pemoline (including organometallic complexes and chelates thereof) (1530).

~~(5)~~ Pipradrol (1750).

Sibutramine (1675).

~~(6)~~ SPA ((-)-1-dimethylamino-1,2-diphenylethane (1635).

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances including its salts:

Butorphanol (including its optical isomers) (9720).

~~(1)~~ Pentazocine (9709).

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b), (c), (d), (e), or (f) from the application of any part of this article if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5. IC 35-48-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The controlled substances listed in this section are included in schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following quantities, which shall include one **(1)** or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligrams of difenoxin (9168), and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) ~~Buprenorphine (9064).~~ **Pregabalin (2782).**

(d) Pyrovalerone (1485).

P.L.23-2008
[H.1016. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-34-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Within five (5) years after a sum of money is deposited in the abandoned property fund in accordance with section 2(d) of this chapter, a person may make a claim to the money by filing an application in the court whose clerk originally held the sum. ~~The claimant shall give at least ten (10) days prior notice of the proceedings on the claim to the attorney general, who may appear in the proceedings to represent the interests of the state.~~

(b) If the proof presented by the claimant satisfies the court that the claim is valid, the court shall order payment of the money to the claimant. If presented with a certified copy of the court's order, the attorney general shall direct the treasurer to return the sum of money to the ~~clerk, who shall present the money to the~~ claimant.

P.L.24-2008
[H.1112. Approved March 3, 2008.]

AN ACT concerning motor vehicles.

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

SECTION 1. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "committee" refers to the interim study committee on learner's permits and graduated driver's licenses established by this SECTION.**

(b) As used in this SECTION, "driver's license" has the meaning set forth in IC 9-13-2-48.

(c) There is established the interim study committee on learner's permits and graduated driver's licenses. The committee shall study:

(1) the minimum age at which learner's permits and probationary driver's licenses can be issued by the bureau of motor vehicles;

(2) requirements for practice driving before a probationary driver's license can be issued;

(3) the use of handheld devices by probationary drivers;

(4) conditions to which the probationary driver is subject while driving;

(5) whether a penalty should be given to a minor who accompanies a probationary driver without an accompanying adult driver of a certain age; and

(6) the adoption of rules concerning driver education instruction.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) This SECTION expires December 1, 2008.

P.L.25-2008
[H.1120. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-18-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter does not apply to any of the following:

(1) Detergents for cleaning in place food processing and dairy equipment.

(2) Phosphoric acid products, including sanitizers, brighteners, acid cleaners, and metal conditioners.

(3) Detergents for use in ~~dish washing machine equipment, including household and~~ commercial machine dishwashers.

(4) Institutional laundry detergents, including detergents for use in hospitals and health care facilities.

(5) Detergents for use in dairy, beverage, food processing, and other industrial cleaning equipment.

(6) A detergent or cleaning compound contained in fuel or lubricating oil.

(7) Any other use of detergents in which the phosphorus contents are not permitted to:

(A) enter a public or private sewer; or

(B) be disposed of in the natural environment.

P.L.26-2008
[H.1129. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

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

SECTION 1. IC 14-8-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 53. "Conservation officer" ~~for purposes of IC 14-9-8, has the meaning set forth in IC 14-9-8-1.~~ **refers to an officer employee of the law enforcement division organized under IC 14-9-8.**

SECTION 2. IC 14-21-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "artifact" means:

(1) a feature that is:

(A) nonportable evidence of past human behavior or activity;

(B) found on or in the ground, including structural remains; and

(C) formed before December 31, 1870; or

(2) an object made, ~~or shaped by human~~ **modified, or used** ~~workmanship~~ before December ~~11, 1816.~~ **31, 1870.**

SECTION 3. IC 14-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a)** As used in this chapter, "burial ground" means ground in which human remains are buried, **including the surrounding area that is either:**

(1) marked by a permanent visible boundary, including a fence or wall; or

(2) if there is not a permanent visible boundary, determined by the department based on records or surveys of the land containing the historic or prehistoric site in which human remains, mounds, or burial objects are reported to occur.

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

(1) The land associated with or incidental to the burial of human remains.

(2) Subject to section 1 of this chapter, historic cemeteries or land with human remains buried before January 1, 1940.

SECTION 4. IC 14-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this chapter, "plan" refers to:

(1) an archeological plan, as described in subsection (b); or

(2) a development plan, as described in subsection (c).

(b) As used in this chapter, "archeological plan" means a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.

(c) As used in this chapter, "development plan" means:

(1) a plan for the erection, alteration, or repair of any structure; **or**

(2) a plan for the excavation or the covering of any ground related to construction.

SECTION 5. IC 14-21-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) As used in this section, "agricultural purpose" includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.

(b) Sections 25, 26, 28, and 29 of this chapter do not apply to the following:

(1) Surface coal mining regulated under IC 14-34.

(2) Cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting any object other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped.

(5) Qualified professional archeologists, as determined by the department, who conduct phase 1a archeological surveys according to guidelines adopted by the department.

SECTION 6. IC 14-21-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) The commission shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

(1) Promotes the scientific investigation and conservation of past cultures.

(2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) **Subject to subsection (e),** plans required under this chapter must be submitted to the department for approval according to rules adopted by the commission.

(e) Proposed plans submitted to the department must be:

(1) approved;

(2) denied; or

(3) held because of the need for additional information;

by the department not more than sixty (60) days after the date of submission. If the department does not take any action on the plan within the time required by this subsection, the plan is considered to be approved, unless approval is prohibited under a state or federal law. If the department requests additional information under subdivision (3), the department shall approve or deny the resubmitted plan not more than thirty (30) days after the resubmitted plan is received.

SECTION 7. IC 14-21-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. (a) A person who disturbs the ground for the purpose of discovering, **uncovering, or moving** artifacts, ~~or~~ burial objects, **or human remains** must do so in accordance with a plan approved by the department under section 25 of this chapter or under IC 14-3-3.4-14 (before its repeal).

(b) A person who recklessly, knowingly, or intentionally violates this section commits **the following:**

(1) A Class A misdemeanor, **if the violation does not involve disturbing human remains.**

(2) A Class D felony, if the violation involves disturbing human remains.

SECTION 8. IC 14-21-1-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26.5. (a) Notwithstanding IC 23-14-44-1, this section does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(4) A surface coal mining and reclamation operation permitted under IC 14-34.

(b) Except as provided in this subsection **and** ~~subsection (b),~~ **subsections (c)** and ~~subsection (c),~~ **(d),** a person may not disturb the ground within one hundred (100) feet of a burial ground ~~or cemetery~~ for the purpose of **excavating or covering over the ground or** erecting, altering, or repairing any structure without having a development plan approved by the department under section 25 of this chapter or in violation of a development plan approved by the department under section 25 of this chapter. The department must review the development plan ~~not later than sixty (60) days after the development plan is submitted.~~ **as required by section 25(e) of this chapter.**

~~(b)~~ **(c)** A development plan:

(1) must be approved if a person intends to:

(A) excavate or cover over the ground; or

(B) construct a new structure or alter or repair an existing structure;

that would ~~significantly~~ impact the burial ground or cemetery; and

(2) is not required if a person intends to:

(A) excavate or cover over the ground; or

(B) erect, alter, or repair an existing structure;

for an incidental or existing use that would not impact the burial ground or cemetery.

~~(c)~~ **(d)** A development plan for a governmental entity to disturb ground within one hundred (100) feet of a burial ground ~~or cemetery~~ must be approved as follows:

(1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the

executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.

(2) A development plan of a governmental entity other than:

(A) a municipality; or

(B) the state;

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

(3) A development plan of the state requires the approval of the department.

(e) If a burial ground is within an archeological site, an archeological plan is required to be part of the development plan.

~~(d)~~ **(f)** A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Class D felony if the person disturbs buried human remains or grave markers while committing the offense.

SECTION 9. IC 14-21-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) A person who disturbs buried human remains **or burial grounds** shall do the following:

(1) Notify the department within two (2) business days of the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.

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

SECTION 10. IC 14-21-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. A person who ~~with the intent to disturb ground for the purpose of discovering or removing~~

~~artifacts, burial objects, grave markers, or human remains, disturbs buried~~ **recklessly, knowingly, or intentionally disturbs** human remains or grave markers **while moving, uncovering, or removing artifacts or burial objects** either:

(1) without a plan approved by the department under:

(A) section 25 of this chapter; or

(B) IC 14-3-3.4-14 (before its repeal); or

(2) in violation of such a plan;

commits a Class D felony.

SECTION 11. IC 14-21-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. (a) A person who discovers, **uncovers, or moves** an artifact or burial object while disturbing the ground for a purpose other than the discovery, **uncovering, or moving** of artifacts or burial objects shall do the following:

(1) Immediately cease disturbing the ground **and the area within one hundred (100) feet of the artifact or burial object.**

(2) Notify the department within two (2) business days after the time of the disturbance.

(b) After notification under subsection (a), the department may do any of the following:

(1) Authorize the person to continue the ground disturbing activity, with or without conditions.

(2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after ~~thirty (30)~~ **ten (10) business** days from the date that the department receives notice.

(c) A person who violates subsection (a) commits a Class A infraction.

SECTION 12. IC 14-21-1-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 32. (a) Subject to subsections (b) and (c), the division may keep reports and information concerning the location of historic and archeological sites confidential if the director of the division determines that disclosure would likely:**

(1) risk harm to the historic or archeological site;

(2) cause a significant invasion of privacy; or

(3) impede the use of a traditional religious site by

practitioners.

(b) The division may not disclose to the public reports and information required to be confidential under federal law.

(c) If the director of the division determines that reports and information should be confidential under subsection (a), the director of the department, in consultation with the director of the division, shall determine who may have access to the confidential reports and information.

SECTION 13. IC 14-21-1-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 33. An employee of the division or a person authorized by the department may accompany a conservation officer on public or private property to determine if there is a violation of this article.**

SECTION 14. IC 14-21-1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 34. (a) The division may conduct a program to assist private homeowners who have accidentally discovered an artifact, a burial object, or human remains and who need assistance to comply with an approved plan to excavate or secure the site from further disturbance. The division may conduct the program alone or by entering into an agreement with any entity that the division selects.**

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director of the division considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms and obligations of the gift or grant.

(c) The auditor of state shall establish the archeology preservation trust fund to hold money received under subsection (b).

(d) The director of the division shall administer the archeology preservation trust fund. The expenses of administering the fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the archeology preservation trust fund that is not currently needed to meet the obligations of the fund in the same manner as other public

trust funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

(f) Money in the archeology preservation trust fund at the end of a state fiscal year does not revert to the state general fund. There is annually appropriated to the division the money in the archeology preservation trust fund for the division's use in carrying out the purposes of this section.

(g) The division may adopt rules under IC 4-22-2 to govern the administration of this section.

SECTION 15. IC 14-21-1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 35. (a) In addition to:**

(1) a:

(A) sentence imposed under this chapter for a felony or misdemeanor; or

(B) judgment imposed under this chapter for an infraction; and

(2) an order for restitution to a victim;

a court may order an individual to make restitution to the archeology preservation trust fund established under section 34 of this chapter for the division's costs incurred because of the offense committed by the individual.

(b) In ordering restitution under this section, the court shall consider the following:

(1) The schedule of costs submitted to the court by the division.

(2) The cost to the property owner to restore or repair the damaged area of an archeological site or burial ground and place the property in the property's original condition as nearly as practicable.

(3) The amount of restitution that the individual is or will be able to pay.

(c) The court shall immediately forward to the division a copy of an order for restitution made under this section.

SECTION 16. IC 14-21-1-36 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 36. A person who knowingly or intentionally receives, retains, or disposes of an artifact, a burial object, or human remains obtained in violation of this chapter**

commits possession of looted property, a Class D felony. However, the offense is a Class C felony if the fair market cost of carrying out a scientific archeological investigation of the area that was damaged to obtain the artifact, burial object, or human remains is at least one hundred thousand dollars ($100,000).

SECTION 17. IC 14-22-40-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1-17. The term includes a conservation officer. ~~(as defined in IC 14-9-8-1).~~

SECTION 18. IC 23-14-57-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. This chapter does not apply to the **following:**

(1) The disinterment, disentombment, or disurnment of remains upon the written order of the coroner of the county in which the cemetery is situated.

(2) The removal of human remains under a plan approved by the division of historic preservation and archeology under IC 14-21-1.

SECTION 19. IC 14-9-8-1 IS REPEALED [EFFECTIVE JULY 1, 2008].

P.L.27-2008
[H.1145. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 36-1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) This section does not apply to the disposal of real property under section 5, 5.5, **5.9,** or 8 of this chapter.

(b) Disposal of real property under this chapter is subject to the approval of:

(1) the executive of the political subdivision or agency; or

(2) the fiscal body of the political subdivision or agency, if there is no executive.

The executive or fiscal body may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1. However, in a municipality the executive shall designate a board or commission of the municipality to give notice, conduct the hearing, and notify the executive of its recommendation.

(c) Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve:

(1) every sale of real property having an appraised value of fifty thousand dollars ($50,000) or more;

(2) every lease of real property for which the total annual rental payments will be twenty-five thousand dollars ($25,000) or more; and

(3) every transfer of real property under section 14 or 15 of this chapter.

SECTION 2. IC 36-1-11-4, AS AMENDED BY P.L.188-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A disposing agent who wants to sell or transfer real property must comply with this section, except as permitted by section 4.1, 4.2, 5, 5.5, 5.7, **5.9,** 8, 14, or 15 of this chapter.

(b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:

(1) professionally engaged in making appraisals;

(2) licensed under IC 25-34.1; or

(3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

(c) After the property is appraised, the disposing agent shall publish a notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale and, when subsection (e) is employed, may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and to conduct a public auction. The advertising conducted by the auctioneer is in addition to any other notice required by law and shall

include a detailed description of the property to be sold stating the key numbers, if any, of the tracts within that property. If the disposing agent determines that the best sale of the property can be made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state the following:

(1) Bids will be received beginning on a specific date.

(2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.

(3) The property may not be sold to a person who is ineligible under section 16 of this chapter.

(4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(d) A bid must be open to public inspection. A bidder may raise the bidder's bid, and subject to subsection (e), that raise takes effect after the board has given written notice of that raise to the other bidders.

(e) The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

(f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the appraised value of the tracts only after having an additional notice of the sale published in accordance with subsection (c). The disposing agent may reject all bids.

(g) If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. However, the disposing agent must still comply

with the procedural requirements of this section. The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

SECTION 3. IC 36-1-11-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.9. (a) As used in this section, "abutting landowner" has the meaning set forth in section 5(a) of this chapter.**

(b) As used in this section, "real property acquired by tax default" means the following:

(1) Real property for which a county holds a tax deed issued under IC 6-1.1-25.

(2) Real property acquired by a political subdivision from a county under section 8 of this chapter if at the time of transfer the county held a tax deed issued under IC 6-1.1-25 for the real property.

(c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and subject to the procedures described in subsections (d) and (e), a disposing agent of a political subdivision may sell or transfer real property acquired by tax default without consideration or for a nominal consideration to an abutting landowner.

(d) A disposing agent who desires to transfer real property acquired by tax default to an abutting landowner shall send notice by certified mail to all abutting landowners. The notice must identify the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include a statement that:

(1) the disposing agent is authorized to transfer the property for no consideration or for nominal consideration;

(2) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(3) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) Not earlier than fourteen (14) days after a disposing agent sends the notice described in subsection (d) to the abutting landowners of a tract, the disposing agent shall conduct the negotiation and sale of the tract under this section as follows:

(1) If only one (1) eligible abutting landowner makes an offer to purchase the tract, then subject to section 16 of this chapter

and without appraisal or further notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (d)(3).

P.L.28-2008

[H.1156. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-6-9.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to pay funeral benefits to the heirs or estate of an active or a retired member of the police department who has died from any cause, in an amount fixed by ordinance, but at least

~~(1) one thousand five hundred dollars ($1,500) for a member who dies before September 1, 1984;~~

~~(2) three thousand dollars ($3,000) for a member who dies after August 31, 1984, and before July 1, 1994;~~

~~(3) six thousand dollars ($6,000) for a member who dies after June 30, 1994, and before January 1, 1999; and~~

~~(4) nine thousand dollars ($9,000) for a member who dies after December 31, 1998.~~

twelve thousand dollars ($12,000).

SECTION 2. IC 36-8-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Upon the death of a disabled, retired, or discharged member of the fire department who was receiving or entitled to receive a pension at the time of ~~his~~ **the member's** death, or upon the death of a member in active service at the time of ~~his~~ **the member's** death, the local board shall authorize and pay out of the 1937 fund at least

~~(1) one thousand five hundred dollars ($1,500) for a member who dies before September 1, 1984;~~

~~(2) three thousand dollars ($3,000) for a member who dies after August 31, 1984, and before July 1, 1994;~~

~~(3) six thousand dollars ($6,000) for a member who dies after June 30, 1994, and before January 1, 1999; and~~

~~(4) nine thousand dollars ($9,000) for a member who dies after December 31, 1998;~~

twelve thousand dollars ($12,000) as death benefits.

(c) The death benefit described under this section shall be paid: ~~to the following:~~

(1) to the surviving spouse;

(2) if there is no surviving spouse, to the surviving children; and

(3) if there is no surviving spouse, and if there are no surviving children, to the estate;

of the deceased member and is in addition to other benefits paid to a member or survivor under this chapter.

SECTION 3. IC 36-8-7.5-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to pay **twelve thousand dollars ($12,000)** to the beneficiary or estate of a member of the fund, active or retired, who:

(1) dies from any cause after having served for one (1) year or more as an active member of the police department; or

(2) dies from any cause while in the actual discharge of ~~his~~ **the member's** duties as a police officer after having served less than one (1) year as an active member of the police department.

~~fifteen hundred dollars ($1,500) for a member who died before September 1, 1984, three thousand dollars ($3,000) for a member who~~

~~dies after August 31, 1984, and before July 1, 1994, six thousand dollars ($6,000) for a member who dies after June 30, 1994, and before January 1, 1999, and nine thousand dollars ($9,000) for a member who dies after December 31, 1998.~~ Any member of the fund may name a beneficiary to receive the amount provided for upon ~~his~~ **the member's** death by designating in writing in such form as is prescribed by the local board and delivered to the board. The beneficiary may be changed from time to time by the member by canceling the designation and delivering a new designation to the local board. If the member makes no designation of beneficiary, the sum provided for shall be paid to the member's estate.

SECTION 4. IC 36-8-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) The heirs or estate of a fund member is entitled to receive at least

~~(1) one thousand five hundred dollars ($1,500) upon the fund member's death before September 1, 1984,~~

~~(2) three thousand dollars ($3,000) upon the fund member's death after August 31, 1984, and before July 1, 1994,~~

~~(3) six thousand dollars ($6,000) upon the fund member's death after June 30, 1994, and before January 1, 1999, and~~

~~(4) nine thousand dollars ($9,000) upon the fund member's death after December 31, 1998.~~

twelve thousand dollars ($12,000) upon the fund member's death.

SECTION 5. [EFFECTIVE JULY 1, 2008] **This act applies only to benefits payable with respect to a member of:**

(1) the 1925 police pension fund;

(2) the 1937 firefighters' pension fund;

(3) the 1953 police pension fund; or

(4) the 1977 police officers' and firefighters' pension and disability fund;

who dies after June 30, 2008.

P.L.29-2008
[H.1193. Approved March 3, 2008.]

AN ACT concerning education.

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

SECTION 1. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "committee" refers to the interim study committee on adult education established by this SECTION.**

(b) There is established the interim study committee on adult education. The committee shall study issues that relate to adult education, including funding for adult education programs.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires November 1, 2008.

P.L.30-2008
[H.1202. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-18-15-1, AS AMENDED BY P.L.1-2007, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;

(2) motorcycle;

(3) recreational vehicle; or

(4) vehicle registered as a truck with a declared gross weight of not more than:

(A) eleven thousand (11,000) pounds;

(B) nine thousand (9,000) pounds; or

(C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

(1) is the registered owner or lessee of a vehicle described in subsection (a); and

(2) is eligible to receive a license plate for the vehicle under:

(A) IC 9-18-17 (prisoner of war license plates);

(B) IC 9-18-18 (disabled veteran license plates);

(C) IC 9-18-19 (Purple Heart license plates);

(D) IC 9-18-20 (Indiana National Guard license plates);

(E) IC 9-18-21 (Indiana Guard Reserve license plates);

(F) IC 9-18-22 (license plates for persons with disabilities);

(G) IC 9-18-23 (amateur radio operator license plates);

(H) IC 9-18-24 (civic event license plates);

(I) IC 9-18-24.5 (In God We Trust license plates);

(J) IC 9-18-25 (special group recognition license plates);

(K) IC 9-18-29 (environmental license plates);

(L) IC 9-18-30 (kids first trust license plates);

(M) IC 9-18-31 (education license plates);

(N) IC 9-18-32.2 (drug free Indiana trust license plates);

(O) IC 9-18-33 (Indiana FFA trust license plates);

(P) IC 9-18-34 (Indiana firefighter license plates);

(Q) IC 9-18-35 (Indiana food bank trust license plates);

(R) IC 9-18-36 (Indiana girl scouts trust license plates);

(S) IC 9-18-37 (Indiana boy scouts trust license plates);

(T) IC 9-18-38 (Indiana retired armed forces member license

plates);

(U) IC 9-18-39 (Indiana antique car museum trust license plates);

(V) IC 9-18-40 (D.A.R.E. Indiana trust license plates);

(W) IC 9-18-41 (Indiana arts trust license plates);

(X) IC 9-18-42 (Indiana health trust license plates);

(Y) IC 9-18-43 (Indiana mental health trust license plates);

(Z) IC 9-18-44 (Indiana Native American trust license plates);

(AA) IC 9-18-45.8 (Pearl Harbor survivor license plates);

(BB) IC 9-18-46.2 (Indiana state educational institution trust license plates);

(CC) IC 9-18-47 (Lewis and Clark bicentennial license plates);

(DD) IC 9-18-48 (Riley Children's Foundation license plates);

(EE) IC 9-18-49 (National Football League franchised professional football team license plates);

(FF) IC 9-18-50 (Hoosier veteran license plates); ~~or~~

(GG) IC 9-18-51 (support our troops license plates); **or**

(HH) IC 9-18-52 (Abraham Lincoln bicentennial license plates);

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 2. IC 9-18-25-1, AS AMENDED BY P.L.1-2007, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter does not apply to the following:

(1) Antique motor vehicle license plates (IC 9-18-12).

(2) Recovery vehicle license plates (IC 9-18-13).

(3) Personalized license plates (IC 9-18-15).

(4) Prisoner of war license plates (IC 9-18-17).

(5) Disabled veteran license plates (IC 9-18-18).

(6) Purple Heart license plates (IC 9-18-19).

(7) Indiana National Guard license plates (IC 9-18-20).

(8) Person with a disability license plates (IC 9-18-22).

(9) Amateur radio operator license plates (IC 9-18-23).

(10) In God We Trust license plates (IC 9-18-24.5).

(11) Pearl Harbor survivor license plates (IC 9-18-45.8).

(12) Hoosier veteran license plates (IC 9-18-50).

(13) Support our troops license plates (IC 9-18-51).

(14) Abraham Lincoln bicentennial license plates (IC 9-18-52).

SECTION 3. IC 9-18-52 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 52. Abraham Lincoln Bicentennial License Plates

Sec. 1. The bureau shall design an Abraham Lincoln bicentennial license plate.

Sec. 2. An Abraham Lincoln bicentennial license plate shall be available for issuance through December 31, 2009.

Sec. 3. The renewal of the registration of an Abraham Lincoln bicentennial license plate must be available through the renewal cycle in 2012, subject to IC 9-18-2-8(g). Notwithstanding section 8 of this chapter, a vehicle may display an Abraham Lincoln bicentennial license plate in 2013, subject to IC 9-18-2-8(g).

Sec. 4. An Abraham Lincoln bicentennial license plate must include the following:

(1) A basic design for the plate with consecutive numbers or letters, or both, to properly identify the vehicle.

(2) A background design, an emblem, or colors that designate the license plate as an Abraham Lincoln bicentennial license plate.

(3) Any other information the bureau considers necessary.

Sec. 5. A license plate issued under this chapter may be displayed on the following:

(1) A passenger motor vehicle.

(2) A truck registered as a truck with a declared gross weight of not more than eleven thousand (11,000) pounds.

(3) A recreational vehicle.

Sec. 6. A person who is a resident of Indiana and who is eligible to register and display a license plate on a vehicle under this title may apply for and receive an Abraham Lincoln bicentennial license plate for one (1) or more vehicles after doing the following:

(1) Completing an application for an Abraham Lincoln bicentennial license plate.

(2) Paying the fee under section 7 of this chapter.

Sec. 7. The fee for an Abraham Lincoln bicentennial license plate is the appropriate fee under IC 9-29-5-34.5.

Sec. 8. This chapter expires December 31, 2013.

SECTION 4. IC 9-29-5-34.5, AS ADDED BY P.L.68-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34.5. A vehicle registered under:

(1) IC 9-18-24.5; **or**

(2) IC 9-18-52;

is subject to an annual registration fee and any other fee or tax required of a person registering a vehicle under this title.

SECTION 5. **An emergency is declared for this act.**

P.L.31-2008

[H.1203. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-18-2-7, AS AMENDED BY P.L.79-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) A person who owns a vehicle subject to registration shall register each vehicle owned by the person as follows:

(1) A vehicle subject to section 8 of this chapter shall be registered under section 8 **of this chapter.**

(2) Subject to subsection (g), a vehicle not subject to section 8 **or 8.5** of this chapter or to the International Registration Plan shall be registered before:

(A) March 1 of each year; or

(B) an earlier date subsequent to January 1 of each year as set by the bureau.

(3) School buses owned by a school corporation are exempt from annual registration but are subject to registration under IC 20-27-7.

(4) Subject to subsection (f), a vehicle subject to the International Registration Plan shall be registered before April 1 of each year.

(5) A school bus not owned by a school corporation shall be registered subject to section 8.5 of this chapter.

(b) Registrations and reregistrations under this section are for the calendar year. Registration and reregistration for school buses owned by a school corporation may be for more than a calendar year.

(c) License plates for a vehicle subject to this section may be displayed during:

(1) the calendar year for which the vehicle is registered; and

(2) the period of time:

(A) subsequent to the calendar year; and

(B) before the date that the vehicle must be reregistered.

(d) Except as provided in IC 9-18-12-2.5, a person who owns or operates a vehicle may not operate or permit the operation of a vehicle that:

(1) is required to be registered under this chapter; and

(2) has expired license plates.

(e) If a vehicle that is required to be registered under this chapter has:

(1) been operated on the highways; and

(2) not been properly registered under this chapter;

the bureau shall, before the vehicle is reregistered, collect the registration fee that the owner of the vehicle would have paid if the vehicle had been properly registered.

(f) The department of state revenue may adopt rules under IC 4-22-2 to issue staggered registration to motor vehicles subject to the International Registration Plan.

(g) **Except as provided in section 8.5 of this chapter,** the bureau may adopt rules under IC 4-22-2 to issue staggered registration to motor vehicles described in subsection (a)(2).

SECTION 2. IC 9-18-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) Notwithstanding section 8 of this chapter, a school bus owned by a person other than a school corporation shall be registered before July 29 of each year.**

(b) Registration and reregistration for a school bus under this section is for one (1) year.

(c) A certificate of inspection as required under IC 20-27-7-16 must accompany a registration and reregistration application of a

school bus under this section.

(d) A person registering a school bus under this section shall pay the annual registration fee required under IC 9-29-5-8 and any fees and service charges required of a vehicle registered under this chapter.

(e) Upon registration of a school bus under this section, the bureau shall issue a license plate under section 30 of this chapter, including:

(1) an annual renewal tag; or

(2) other indicia;

to be attached on the semipermanent plate.

(f) A license plate with a renewal tag or other indicia of registration issued under this section may be displayed during:

(1) the calendar year for which the school bus is registered; and

(2) the period:

(A) after the calendar year; and

(B) before July 29 of the subsequent year.

SECTION 3. IC 9-29-5-42, AS AMENDED BY P.L.210-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) Except as provided in subsection (c), vehicles not subject to IC 9-18-2-8 **or IC 9-18-2-8.5** shall be registered at one-half (1/2) of the regular rate, subject to IC 9-18-2-7, if the vehicle is registered after July 31 of any year. This subsection does not apply to the following:

(1) Special machinery.

(2) Semitrailers registered on a five (5) year or permanent basis under IC 9-18-10-2.

(3) An implement of agriculture designed to be operated primarily on a highway.

(b) Except as provided in subsection (c), subsection (a) and IC 9-18-2-7 determine the registration fee for the registration of a vehicle subject to registration under IC 9-18-2-8(c), IC 9-18-2-8(d), and IC 9-18-2-8(e) and acquired by an owner subsequent to the date required for the annual registration of vehicles by an owner set forth in IC 9-18-2-8.

(c) Subject to subsection (d), a vehicle subject to the International Registration Plan that is registered after September 30 shall be

registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before April 1 of the following year beginning with the date of registration. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(d) If the department of state revenue adopts rules under IC 9-18-2-7 to implement staggered registration for motor vehicles subject to the International Registration Plan, a motor vehicle subject to the International Registration Plan that is registered after the date designated for registration of the motor vehicle in rules adopted under IC 9-18-2-7 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before the motor vehicle must be reregistered. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(e) A school bus subject to registration under IC 9-18-2-8.5 that is registered after January 31 for the prior calendar year shall be registered at one-half (1/2) the regular rate.

SECTION 4. IC 20-27-7-16, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. When the owner of a school bus applies for a registration plate **under IC 9-18-2-7 or IC 9-18-2-8.5,** the owner shall submit with the application a certificate of inspection ~~and safety~~ issued under **section 3 of** this chapter. If the certificate **of inspection** does not accompany an owner's application, the bureau of motor vehicles may not issue a registration plate.

SECTION 5. IC 20-27-7-18, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A school corporation that owns a school bus or a special purpose bus and uses the school bus or special purpose bus to transport students is exempt from the payment of the annual

registration fee for the school bus or special purpose bus. On application by a school corporation, the commissioner of motor vehicles shall furnish registration number plates for exempted vehicles without charge. Application for registration of exempted vehicles shall be:

(1) made whenever a newly acquired school bus or special purpose bus requires a registration number plate;

(2) made whenever a registration number plate is transferred from one (1) school bus or special purpose bus owned by the school corporation to another school bus or special purpose bus owned by the school corporation;

(3) made in the name of the school corporation that owns the school bus or special purpose bus to be registered; and

(4) signed by the proper official of the school corporation.

(b) An owner other than a school corporation that owns a school bus or a special purpose bus and uses the school bus or special purpose bus to transport students is not exempt from annual registration **as required under IC 9-18-2-8.5** or payment of the annual registration fee for school buses.

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) A person that has registered a school bus owned by a person other than a school corporation before March 1, 2008, in compliance with IC 9-18-2-7, before its amendment by this act, may display the license plates issued for the school bus in 2008 and through July 28, 2009.**

(b) This SECTION expires December 31, 2009.

SECTION 7. **An emergency is declared for this act.**

P.L.32-2008
[H.1213. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

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

SECTION 1. IC 22-8-1.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, unless otherwise provided:

"Board" means the board of safety review created by this chapter.

~~"Bureau" means the safety education and training bureau created by this chapter.~~

"Commission" means the occupational safety standards commission created by this chapter.

"Commissioner" means the commissioner of labor or ~~his~~ **the commissioner's** duly designated representative.

"Department" means the department of labor.

"Employee" means a person permitted to work by an employer in employment.

"Employer" means any individual or type of organization, including the state and all its political subdivisions, that has in its employ one (1) or more individuals.

"INSafe" means the division of the department created by section 40 of this chapter.

"Safety order" refers to a notice issued to employers by the commissioner of labor for alleged violations of this chapter, including any health and safety standards.

"Standard" refers to both health and safety standards.

"Voluntary protection program" means a program offered by the United States Occupational Safety and Health Administration to employers subject to this chapter that exempts the employers from general scheduled inspections.

SECTION 2. IC 22-8-1.1-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. A ~~safety education and training bureau is created within~~ **division of** the department **to be known as INSafe is created** to implement a program of occupational health and safety education and training.

SECTION 3. IC 22-8-1.1-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. The duties of ~~the bureau~~ **INSafe** shall include, but not be limited to, the following:

~~(a)~~ **(1)** Development of a statewide health and safety education and training program to acquaint employers, supervisors, employees, and union leaders with the most modern and effective techniques of accident investigation and prevention.

~~(b)~~ **(2)** Development and promotion of the consultative educational approach as a desirable and effective long range solution to occupational health and safety problems.

~~(c)~~ **(3)** Development of training programs for occupational health and safety personnel.

~~(d)~~ **(4)** Planning, organizing, and attending occupational health and safety seminars, conferences, and meetings designed for management, supervisory personnel, employees, and union representatives.

~~(e)~~ **(5)** Definition and establishment of necessary research projects.

~~(f)~~ **(6)** Arrangement and procurement of necessary contractual services and training aids.

~~(g)~~ **(7)** Planning, developing, organizing, attending, and presenting specific occupational health and safety programs for employer groups.

~~(h)~~ **(8)** Conducting onsite consultations upon request from an employer. Onsite consultation shall be defined by ~~the bureau~~ **INSafe** by rule under IC 4-22-2.

~~(i)~~ **(9)** Providing occupational health and safety pamphlets, booklets, brochures, and other appropriate health and safety media.

SECTION 4. IC 22-8-1.1-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. The director and staff of ~~the bureau~~ **INSafe** shall be selected and appointed by the commissioner under the provisions of IC 4-15-2.

SECTION 5. IC 22-8-1.1-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. ~~(Bureau: Employer annual report)~~ (a) To insure the availability of accurate, timely statistical data concerning occupational health and safety, all employers having one (1) or more employees simultaneously employed shall submit annual reports to ~~the bureau~~ **INSafe** (on a form and in a manner prescribed by the director) of all disabling work injuries.

(b) ~~The bureau~~ **INSafe** may exempt from the requirement of subsection (a) those classes of employers for whose operations adequate records of safety experience are already available. ~~The bureau~~ **INSafe** may also exempt any employer when, in the judgment of the director, the submission of annual reports by the employer is not necessary to carry out the purposes of this chapter and would be an undue burden upon the employer because of size, the nature of its operation or other special circumstances.

SECTION 6. IC 22-8-1.1-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) The tax shall be paid directly to the director who shall deposit the revenues in a special fund to be used solely for ~~the~~ safety and health ~~programs~~ **consultation, education, and training services** for employer groups and for onsite consultation service as provided in section ~~41(g) and 41(h)~~ **41** of this chapter. These revenues shall not be transferable to any other fund and shall not revert to the general fund at the end of any fiscal year.

(b) Tax revenues as provided for in section 47 of this chapter shall be made available to ~~the bureau~~ **INSafe** only by appropriation of the general assembly based upon the needs of ~~the bureau~~ **INSafe** as determined by the department and submitted in the form of a budget in the manner provided by law.

(c) The annual tax payment is due and payable on or before April 10 of each year in which the tax is imposed.

SECTION 7. IC 22-8-1.1-48.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48.1. The commissioner of labor, the occupational safety standards commission, the board of safety review, and ~~the bureau of safety education and training~~ **INSafe** shall have the power to make rules governing functions under this chapter, provided such rules shall not be inconsistent with this chapter or other applicable statutes.

SECTION 8. IC 22-8-1.1-48.4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48.4. (a) All information reported to or otherwise obtained by the commissioner, ~~his~~ **the** designated representatives **of the commissioner,** the department of labor, the occupational safety standards commission, the board of safety review, ~~the bureau of safety education and training,~~ **INSafe,** and the agents and employees of any of them that contains or might reveal a trade secret, shall be considered confidential and shall be disclosed only to such other officers or employees concerned with the functions set forth in this chapter as may be necessary for them to discharge their duties under this chapter. In any proceeding, the commissioner, the commission, the board, or a court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets.

(b) No person may violate the confidentiality of trade secrets.

SECTION 9. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "INSafe" refers to the division of the department of labor described in IC 22-8-1.1-40, as amended by this act.**

(b) The unencumbered and unallocated part of the appropriation made by P.L.234-2007, SECTION 4, to the Department of Labor, Bureau of Safety Education and Training for the state fiscal year beginning July 1, 2008, is transferred to INSafe.

(c) The following restrictions on the appropriation imposed upon the Bureau of Safety Education and Training by P.L.234-2007, SECTION 4, do not apply to INSafe:

(1) Federal cost reimbursements for expenses attributable to the Bureau of Safety Education and Training appropriations shall be deposited into the special fund for safety and health consultation services.

(2) The above appropriations for the Bureau of Safety Education and Training shall not be used to compete with consultation services provided by legitimate engineering firms, insurance companies, or professional consultants. The Bureau of Safety Education and Training shall limit training activities to private companies for which it has conducted an on-site consultation and shall limit training to only direct employees at that site.

(d) The following conditions apply to the appropriation made to

the Bureau of Safety Education and Training by P.L.234-2007, SECTION 4, as transferred to INSafe by this act:

(1) Federal cost reimbursements for expenses attributable to the INSafe appropriations shall be deposited into the special fund for safety and health consultation, education, and training services.

(2) The mission of INSafe is to provide safety and health education, consultation, and training service without unnecessarily competing with private sector entities that may provide similar services.

P.L.33-2008

[H.1227. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-13.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~(a)~~ The shoreline development commission is established.

SECTION 2. IC 36-7-13.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The commission consists of the following members:

(1) The following members appointed by the governor:

(A) The mayor of East Chicago.

(B) The mayor of Gary.

(C) The mayor of Hammond.

(D) The mayor of Michigan City.

(E) The mayor of Portage.

(F) The mayor of Whiting.

(G) Two (2) representatives, each from a steel company that owns land abutting Lake Michigan with a continuous shoreline

of not less than one (1) mile.

(H) One (1) representative of a company that:

(i) is not a steel company; and

(ii) owns land abutting Lake Michigan with a continuous shoreline of not less than three-tenths (0.3) mile.

(I) One (1) representative of the department of environmental management.

(J) One (1) representative of the department of natural resources.

(K) One (1) representative of the **Indiana** department of transportation.

(L) One (1) representative of Beverly Shores.

(M) One (1) representative of Burns Harbor.

(N) One (1) representative of Dune Acres.

(O) One (1) representative of Ogden Dunes.

(P) One (1) representative of the northwest Indiana advisory board established under IC 13-13-6.

(Q) One (1) representative of a public utility that owns real property that:

(i) is located in the counties contiguous to Lake Michigan; and

(ii) has a total assessed value that exceeds the total assessed value of real property in the counties contiguous to Lake Michigan that is owned by any other public utility.

(R) The port director of the Port of Indiana-Burns Harbor.

(2) One (1) member, **preferably from a visitor and tourism business,** appointed by the lieutenant governor.

(3) Two (2) members appointed by the speaker of the house of representatives who:

(A) are members of the house of representatives;

(B) represent house districts that have territory within the corridor; and

(C) are not affiliated with the same political party.

If all the house districts that have territory within the corridor are represented by members of the house of representatives who are from the same political party, the speaker shall appoint a member of the house of representatives who represents a house district that

is located anywhere in a county that has territory within the corridor to satisfy the requirement under clause (C).

(4) Two (2) members appointed by the president pro tempore of the senate who:

(A) are members of the senate;

(B) represent senate districts that have territory within the corridor; and

(C) are not affiliated with the same political party.

If all the senate districts that have territory within the corridor are represented by members of the senate who are from the same political party, the president pro tempore shall appoint a member of the senate who represents a senate district that is located anywhere in a county that has territory within the corridor to satisfy the requirement under clause (C).

P.L.34-2008

[H.1234. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-33-2-20, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) An accurate daily record of the attendance of each student who is subject to compulsory school attendance under this chapter shall be kept by every public and nonpublic school.

(b) In a public school, the record shall be open at all times for inspection by:

(1) attendance officers;

(2) school officials; ~~and~~

(3) agents of the department of labor;

(4) security police officers appointed under IC 36-8-3-7; and

(5) school corporation police officers appointed under IC 20-26-16.

Every teacher shall answer fully all lawful inquiries made by an attendance officer, a school official, ~~or~~ an agent of the department of labor, **or a security police officer appointed under IC 36-8-3-7.**

(c) In a nonpublic school, the record shall be required to be kept solely to verify the enrollment and attendance of a student upon request of the:

(1) state superintendent; or

(2) superintendent of the school corporation in which the nonpublic school is located.

SECTION 2. IC 20-33-2-26, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. (a) It is the duty of each:

(1) superintendent;

(2) attendance officer; ~~and~~

(3) state attendance official;

(4) security police officer appointed under IC 36-8-3-7; and

(5) school corporation police officer appointed under IC 20-26-16;

to enforce this chapter in their respective jurisdictions and to execute the affidavits authorized under this section. The duty is several, and the failure of one (1) or more to act does not excuse another official from the obligation to enforce this chapter.

(b) An affidavit against a parent for a violation of this chapter shall be prepared and filed in the same manner and under the procedure prescribed for filing affidavits for the prosecution of public offenses.

(c) An affidavit under this section shall be filed in ~~the circuit~~ **a** court ~~of~~ **with jurisdiction in** the county in which the affected child resides. The prosecuting attorney shall file and prosecute actions under this section as in other criminal cases. The court shall promptly hear cases brought under this section.

P.L.35-2008
[H.1243. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-154.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 154.8. "Retractable tire studs", for purposes of IC 9-19-18, means tire studs that:**

(1) are capable of being retracted; and

(2) otherwise satisfy the requirements of IC 9-19-18-3(d).

SECTION 2. IC 9-19-18-3, AS AMENDED BY P.L.210-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Except as provided in subsections (b) through ~~(d),~~ **(e),** a tire on a vehicle moved on a highway may not have on the tire's periphery a block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber that projects beyond the tread of the traction surface of the tire.

(b) Implements of agriculture may use tires having protuberances that will not injure the highway.

(c) Tire chains of reasonable proportions may be used upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(d) From October 1 to the following May 1, a vehicle may use tires in which have been inserted ice grips or tire studs, **including retractable tire studs, that:**

(1) are of wear-resisting material;

(2) are installed in a manner that provides resiliency upon contact with the road; ~~with~~

(3) have projections that do not exceed three thirty-seconds (3/32) of an inch beyond the tread of the traction surface of the tire; and

(4) are constructed to prevent any appreciable damage to the road

surface.

(e) Notwithstanding subsection (d), a vehicle may be equipped year-round with tires that have retractable tire studs if the tire studs remain retracted from May 2 to September 30 of each year.

P.L.36-2008

[H.1253. Approved March 3, 2008.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 9-21-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The Indiana department of transportation shall adopt ~~rules under IC 4-22-2 to create~~ the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways **by order of the commissioner of the Indiana department of transportation with a letter of concurrence from the Federal Highway Administration.**

SECTION 2. IC 9-21-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. All **manuals (including** revisions to the manuals) described in ~~section 1~~ **section 2** of this chapter may be considered to become a part of the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways if the following conditions exist:

(1) The Indiana department of transportation concurs in the revisions.

(2) The Indiana department of transportation adopts the ~~rules under IC 4-22-2 to make~~ **manuals (including** revisions) ~~a part of the manual.~~ **by order of the commissioner of the Indiana department of transportation.**

SECTION 3. [EFFECTIVE JULY 1, 2008] **A rule adopted under**

IC 9-21-2-1, before its amendment by this act, expires on the date on which the commissioner of the Indiana department of transportation issues an order under IC 9-21-2-1, as amended by this act.

P.L.37-2008
[S.281. Approved March 5, 2008.]

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

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

SECTION 1. IC 3-8-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This section does not apply to a candidate for federal office.

(b) As used in this section, "felony" means a conviction in any jurisdiction for which the convicted person might have been imprisoned for ~~at least~~ **more than** one (1) year. However, the term does not include a conviction:

(1) for which the person has been pardoned; or

(2) that has been:

(A) reversed;

(B) vacated;

(C) set aside; or

(D) not entered because the trial court did not accept the person's guilty plea.

(c) A person is disqualified from assuming or being a candidate for an elected office if:

(1) the person gave or offered a bribe, threat, or reward to procure the person's election, as provided in Article 2, Section 6 of the Constitution of the State of Indiana;

(2) the person does not comply with IC 5-8-3 because of a

conviction for a violation of the federal laws listed in that statute;

(3) in a:

(A) jury trial, a jury publicly announces a verdict against the person for a felony;

(B) bench trial, the court publicly announces a verdict against the person for a felony; or

(C) guilty plea hearing, the person pleads guilty or nolo contendere to a felony;

(4) the person has been removed from the office the candidate seeks under Article 7, Section 11 or Article 7, Section 13 of the Constitution of the State of Indiana;

(5) the person is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate; or

(6) the person is subject to:

(A) 5 U.S.C. 1502 (the Little Hatch Act); or

(B) 5 U.S.C. 7321-7326 (the Hatch Act);

and would violate either federal statute by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office.

(d) The **subsequent** reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 **after the:**

(1) jury has announced its verdict against the person for a felony;

(2) court has announced its verdict against the person for a felony; or

(3) person has pleaded guilty or nolo contendere to a felony; does not affect the operation of subsection (c).

SECTION 2. IC 5-8-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 38. (a) The following definitions apply throughout this section:**

(1) "Felony" has the meaning set forth in IC 3-8-1-5.

(2) "Public officer" means any person, elected or appointed, who holds any state, county, township, city, or town office.

(b) Any public officer convicted of a felony during the public officer's term of office shall:

(1) be removed from office by operation of law when:

(A) in a jury trial, a jury publicly announces a verdict against the person for a felony;

(B) in a bench trial, the court publicly announces a verdict against the person for a felony; or

(C) in a guilty plea hearing, the person pleads guilty or nolo contendere to a felony; and

(2) not receive any salary or remuneration from the time the public officer is removed from office under subdivision (1).

(c) The subsequent reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 after the:

(1) jury has announced its verdict against the person for a felony;

(2) court has announced its verdict against the person for a felony; or

(3) person has pleaded guilty or nolo contendere to a felony;

does not affect the operation of subsection (b).

(d) If the conviction is:

(1) reversed;

(2) vacated;

(3) set aside;

(4) for a felony other than a felony arising out of an action taken in the public officer's official capacity, reduced to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5; or

(5) not entered because the trial court did not accept the guilty plea;

and the public officer's term has not expired, the public officer shall be reinstated in office and receive any salary or other remuneration that the public officer would have received had the public officer not been removed from office.

(e) If the conviction is reversed, vacated, or set aside and the public officer's term has expired, the public officer shall receive any salary or other remuneration that the public officer would have received had the public officer not been removed from office.

(f) A vacancy in a public office caused by the removal of a public officer under this section shall be filled as provided by law. If a convicted public officer is reinstated, the person filling the office during the appeal shall cease to hold the office.

(g) This subsection applies whenever:

(1) a public officer is removed from office by operation of law under subsection (b); and

(2) a vacancy occurs in a state, county, township, city, or town office as the result of the removal from office.

The court must file a certified copy of the sentencing order with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving a copy of the sentencing order must give notice of the vacancy in the same manner as if the person had received a notice under IC 5-8-6. The person who is required or permitted to fill the vacancy must comply with IC 3-13.

(h) This subsection applies if a public officer is reinstated in office under subsection (d). The court must file a certified copy of the order reversing, vacating, reducing, or setting aside the conviction with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving a copy of the order must give notice of the reinstatement in the same manner as notice of a vacancy would be given under IC 5-8-6. The person receiving a copy of the order must also give notice to the person who was selected to fill the vacancy before the reinstatement occurred.

SECTION 3. IC 36-4-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The office of executive becomes vacant whenever the executive:

(1) dies, resigns, or is removed from office;

(2) ceases to be a resident of the city;

(3) is convicted of a felony, as provided in ~~IC 5-8-1-37,~~ **IC 5-8-1-38;** or

(4) is unable to discharge the powers and duties of his office for more than six (6) months.

(b) The vacancy shall be filled under IC 3-13-8.

SECTION 4. IC 5-8-1-37 IS REPEALED [EFFECTIVE JULY 1, 2008].

P.L.38-2008
[H.1067. Approved March 5, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-18-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 9. Display of United States Flag Upon Death of Certain Military Personnel

Sec. 1. As used in this chapter, "armed forces of the United States" means:

(1) the Army;

(2) the Navy;

(3) the Air Force;

(4) the Coast Guard; and

(5) the Marine Corps.

Sec. 2. As used in this chapter, "died of wounds received in action" means a member, other than a member who is the victim of a terrorist activity, who after reaching a medical treatment facility dies of wounds or other injuries received in action.

Sec. 3. As used in this chapter, "half-staff" means the position of a flag when the flag is one-half (1/2) the distance between the top and bottom of the staff.

Sec. 4. As used in this chapter, "killed in action" means a member, other than a member who is the victim of a terrorist activity, who:

(1) is killed outright in action; or

(2) before reaching a medical treatment facility dies as a result of wounds or other injuries received in action.

Sec. 5. As used in this chapter, "member" refers to a member of:

(1) the armed forces of the United States; or

(2) the National Guard;

who is a resident of Indiana.

Sec. 6. As used in this chapter, "National Guard" means:

(1) the Indiana Army National Guard; or

(2) the Indiana Air National Guard.

Sec. 7. As used in this chapter, "United States flag" refers to a United States flag flown on property owned or controlled by the state.

Sec. 8. Not more than twenty-four (24) hours after receiving notice and confirming through the United States Department of Defense that a member has:

(1) been killed in action; or

(2) died of wounds received in action;

the governor shall issue a proclamation ordering the United States flag to be flown at half-staff on the day of the member's funeral or memorial service.

Sec. 9. This chapter does not prohibit or otherwise limit the flying of other flags at half-staff under a separate gubernatorial proclamation.

P.L.39-2008

[H.1244. Approved March 5, 2008.]

AN ACT to amend the Indiana Code concerning education and local government.

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

SECTION 1. IC 20-42-2-1, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to a county that has money in a fund **and has not surrendered custody of the fund to the treasurer of state under section 4.5 of this chapter, or a predecessor law.**

SECTION 2. IC 20-42-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. (a) A county council may adopt a resolution to:**

(1) elect to surrender the custody of the fund or any part of the fund; and

(2) order the board of county commissioners, the county auditor, and the county treasurer to take all steps necessary to surrender the custody of the fund or part of the fund that is to be surrendered.

If the county council adopts a resolution under this section, the amount of money designated by the resolution distributed to and held in trust by the county is to be transferred to the treasurer of state over a period not to exceed twenty (20) years. A county council may elect whether the county shall surrender all or any part of the fund. If the county retains custody of any money in the fund, the county shall loan the money as otherwise provided by law.

(b) Within ten (10) days after the passage of the resolution by a county council of a county electing to surrender the custody of the fund or part of the fund, the county auditor shall prepare and file with the board of commissioners of the county a report showing the following:

(1) The total amount of the fund that has been entrusted to and is held in trust by the county.

(2) The total amount of the fund that is loaned as provided by law.

(3) The total amount of the fund, if any, loaned to the county and which loans are unpaid.

(4) The total amount of the fund held in cash in the possession and custody of the county and that is not loaned.

(5) A separate schedule of past due loans. The schedule must show the unpaid balance of principal and the amount of delinquent interest due and unpaid on each delinquent loan.

(c) The board of county commissioners shall examine the reports, and, if found correct, the board of county commissioners shall order:

(1) that the report be entered on its records; and

(2) the county auditor to draw the county auditor's warrant, payable to the treasurer of state, for the amount of the fund

that is not loaned and is held in cash in the custody and possession of the county as shown by the report.

The county auditor shall forward the warrants to the auditor of state together with a certified copy of the report. The county auditor shall also forward with the payment a certified copy of the resolution of the county council electing to surrender the custody of the fund or any part of the fund.

(d) After passage by the county council of a resolution electing to surrender the custody of the fund or any part of the fund, no part of the fund up to the amount designated in the resolution that is not surrendered to the treasurer of state and is in the custody of the county may be loaned by the county or by any official of the county. Except as provided in this subsection, all outstanding loans of the fund not part of the amount retained by the county at the time of the passage of the resolution shall be collected when due. Any loan that comes due and payable after the passage of the resolution may be renewed for one (1) additional five (5) year period, on the application of the person owing the loan as provided by law. However, a loan that is more than one (1) year delinquent in payment of principal or interest at the time of the passage of the resolution of the county council may not be renewed.

(e) The maximum time to surrender money that the county designates in the resolution is for a period not to exceed twenty (20) years. On:

(1) May 1 or November 1 immediately after the passage of the resolution electing to surrender the fund or any part of the fund; and

(2) each May 1 and November 1 thereafter;

all the money collected and on hand up to the amount designated in the resolution that belongs to the fund that is to be surrendered shall be paid to the treasurer of state. If at the time for a semiannual payment the amount collected and paid to the treasurer of state when added to the amounts previously paid to the treasurer of state is less than the result determined by multiplying two and one-half percent (2.5%) of the amount in the resolution by the number of semiannual payments that have occurred after the passage of the resolution, the county auditor shall draw the county auditor's warrant on the general fund of the county for an amount sufficient to pay to the treasurer of state the

difference between the amount paid and the amount equal to the result of multiplying two and one-half percent (2.5%) of the amount designated in the resolution by the number of semiannual payments that have occurred after the passage of the resolution.

(f) The board of county commissioners shall, in its annual budget estimate, include an estimate of the amount necessary to make the payments from the county general fund as required by this section, and the county council shall appropriate the amount of the estimate.

(g) A county is subrogated to all the rights and remedies of the state with respect to loans made from a fund held in trust by the county to the extent of any and all payments made from the county general fund under this chapter.

(h) If a county elects to transfer custody of the fund or any part of the fund to the treasurer of state, the treasurer of state shall ensure that the principal of the fund belonging to any congressional township or a part of a congressional township shall never be diminished in amount.

(i) If a county elects to transfer custody of the fund or any part of the fund to the treasurer of state, the treasurer of state shall take steps to ensure that the income of the fund belonging to any congressional township or a part of a congressional township may not be:

(1) diminished by an apportionment; or

(2) diverted or distributed to another township.

SECTION 3. IC 20-42-2-6, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The payment of annual interest must be full and complete every year. The payment must appear in the county auditor's **or treasurer of state's** report to the state superintendent. The state superintendent shall, at any time when the state superintendent discovers that there is a deficit in the amount collected, direct the attention of the board of county commissioners and the county auditor to the fact. The board of commissioners shall provide for the deficit in the commissioners' respective counties.

SECTION 4. IC 20-42-2-7, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The county auditor of each county **or the treasurer**

of state shall, semiannually, on the second Monday of July and on the last Monday in January make apportionment of the amount of the congressional township school revenue belonging to each school corporation. The apportionment shall be paid to each school corporation's treasurer.

SECTION 5. IC 20-42-2-8, AS ADDED BY P.L.2-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The county auditor **or treasurer of state** shall report the amount apportioned to the state superintendent, verified by affidavit.

SECTION 6. IC 36-9-23-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 33. (a) An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (l), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:

(A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars ($5), which is in addition to the recording fee charged under

this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection (e), the county auditor of each county shall add a fifteen dollar ($15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next ~~May~~ installment of property taxes. ~~In a county having a consolidated city, the delinquent fees, penalties, service charges, and recording fees are due not later than the due date of the next installment of property taxes.~~ The county treasurer shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(h) After certification of liens under subsection (e), the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose

property has been certified to the county auditor. This subsection does not apply to a county containing a consolidated city.

(i) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the municipality. The county treasurer shall retain the service charges and certification fees that have been collected, and shall deposit them in the county general fund.

(k) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 32(d) of this chapter, files a verified demand with the county auditor.

(l) A board may write off a fee or penalty under subsection (a) that is for less than forty dollars ($40).

P.L.40-2008
[H.1108. Approved March 10, 2008.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-8.1-8-3, AS AMENDED BY P.L.111-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) The county sheriff of a county shall attempt to levy on and collect a judgment arising from a tax warrant in that county for a period of one hundred twenty (120) days from the date the judgment lien is entered, unless the sheriff is relieved of that duty

at an earlier time by the department. The sheriff's authority to collect the warrant exists only while the sheriff holds the tax warrant, and if the sheriff surrenders the warrant to the department for any reason the sheriff's authority to collect that tax warrant ceases. During the period that the sheriff has the duty to collect a tax warrant, the sheriff shall collect from the person owing the tax, an amount equal to the amount of the judgment lien plus the accrued interest to the date of the payment. Subject to subsection (b), the sheriff shall make the collection by garnisheeing the person's wages and by levying on and selling any interest in property or rights in any chose in action that the person has in the county. The Indiana laws which provide relief for debtors by exempting certain property from levy by creditors do not apply to levy and sale proceedings for judgments arising from tax warrants.

(b) A sheriff shall sell property to satisfy a tax warrant in a manner that is reasonably likely to bring the highest net proceeds from the sale after deducting the expenses of the offer to sell and sale. A sheriff may engage an auctioneer to advertise a sale and to conduct a public auction, unless the person being levied files an objection with the clerk of the circuit or superior court having the tax warrant within five (5) days of the day that the sheriff informs the person of the person's right to object. The advertising conducted by the auctioneer is in addition to any other notice required by law, and shall include a detailed description of the property to be sold. When an auctioneer is engaged under this subsection and the auctioneer files a verified claim with the clerk of the circuit or superior court with whom the tax warrant is filed, the sheriff may pay the reasonable fee and reasonable expenses of the auctioneer from the gross proceeds of the sale before other expenses and the judgment arising from the tax warrant are paid. As used in this section, "auctioneer" means an auctioneer licensed under IC 25-6.1.

(c) The sheriff shall deposit all amounts that the sheriff collects under this section, including partial payments, into a special trust account for judgments collected that arose from tax warrants. On or before the fifth day of each month, the sheriff shall disburse the money in the tax warrant judgment lien trust account in the following order:

(1) The sheriff shall pay the department the part of the collections that represents taxes, interest, and penalties.

(2) The sheriff shall pay the county treasurer and the clerk of the circuit or superior court the part of the collections that represents their assessed costs.

(3) Except as provided in ~~subdivision~~ **subdivisions** (4) **and (5),** the sheriff shall keep the part of the collections that represents the ten percent (10%) collection fee added under section 2(b) of this chapter.

(4) If the sheriff has entered a salary contract under IC 36-2-13-2.5, the sheriff shall deposit in the county general fund the part of the collections that represents the ten percent (10%) collection fee added under section 2(b) of this chapter.

(5) If the sheriff has not entered into a salary contract under IC 36-2-13-2.5, the sheriff shall deposit in the county general fund the part of the collections that:

(A) represents the ten percent (10%) collection fee added under section 2(b) of this chapter; and

(B) would, if kept by the sheriff, result in the total amount of the sheriff's annual compensation exceeding the maximum amount allowed under IC 36-2-13-17.

The department shall establish the procedure for the disbursement of partial payments so that the intent of this section is carried out.

(d) After the period described in subsection (a) has passed, the sheriff shall return the tax warrant to the department. However, if the department determines that:

(1) at the end of this period the sheriff is in the process of collecting the judgment arising from a tax warrant in periodic payments of sufficient size that the judgment will be fully paid within one (1) year after the date the judgment was filed; and

(2) the sheriff's electronic data base regarding tax warrants is compatible with the department's data base;

the sheriff may keep the tax warrant and continue collections.

(e) Notwithstanding any other provision of this chapter, the department may order a sheriff to return a tax warrant at any time, if the department feels that action is necessary to protect the interests of the state.

(f) This subsection applies only to the sheriff of a county having a consolidated city or a second class city. In such a county, the ten percent (10%) collection fee added under section 2(b) of this chapter shall be divided as follows:

(1) **Subject to subsection (g),** the sheriff may retain ~~for disbursement under subsection (c)~~ forty thousand dollars

($40,000), plus one-fifth (1/5) of any fees exceeding that forty thousand dollar ($40,000) amount.

(2) Two-fifths (2/5) of any fees exceeding that forty thousand dollar ($40,000) amount shall be deposited in the sheriff's department's pension trust fund.

(3) Two-fifths (2/5) of any fees exceeding that forty thousand dollar ($40,000) amount shall be deposited in the county general fund.

(g) If an amount of the collection fee added under section 2(b) of this chapter would, if retained by the sheriff under subsection (f)(1), cause the total amount of the sheriff's annual compensation to exceed the maximum amount allowed under IC 36-2-13-17, the sheriff shall instead deposit the amount in the county general fund.

(h) Money deposited into a county general fund under subsections (c)(5) and (g) must be used as follows:

(1) To reduce any unfunded liability of a sheriff's pension trust plan established for the county's sheriff's department.

(2) Any amounts remaining after complying with subdivision (1) must be applied to the costs incurred to operate the county's sheriff's department.

SECTION 2. IC 36-2-13-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.5. (a) The sheriff, the executive, and the fiscal body may enter into a salary contract for the sheriff.

(b) A sheriff's salary contract must contain the following provisions:

(1) A fixed amount of compensation for the sheriff in place of fee compensation.

(2) Payment of the full amount of the sheriff's compensation from the county general fund in the manner that salaries of other county officials are paid.

(3) Deposit by the sheriff of the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3) in the county general fund for use for any general fund purpose.

(4) A procedure for financing prisoners' meals that uses one (1) of the following methods:

(A) The county fiscal body shall make an appropriation in the usual manner from the county general fund to the sheriff for feeding prisoners. The sheriff or the sheriff's officers, deputies,

or employees may not make a profit from the appropriation. The sheriff shall deposit all meal allowances received under IC 36-8-10-7 in the county general fund for use for any general fund purpose.

(B) The sheriff shall pay for feeding prisoners from meal allowances received under IC 36-8-10-7. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the meal allowances. After the expenses of feeding prisoners are paid, the sheriff shall deposit any unspent meal allowance money in the county general fund for use for any general fund purpose.

(5) A requirement that the sheriff shall file an accounting of expenditures for feeding prisoners with the county auditor on the first Monday of January and the first Monday of July of each year.

(6) An expiration date that is not later than the date that the term of the sheriff expires.

(7) Other provisions concerning the sheriff's compensation to which the sheriff, the county executive, and the fiscal body agree.

(c) A salary contract is entered under this section when a written document containing the provisions of the contract is:

(1) approved by resolution of both the executive and the fiscal body; and

(2) signed by the sheriff.

(d) A salary contract entered into under this section before November 1, 2010, with a sheriff who is reelected to office in 2010 is subject to section 17 of this chapter.

SECTION 3. IC 36-2-13-2.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.8. (a) In place of any other form of compensation, including a salary contract entered into under section 2.5 of this chapter, a county may pay a sheriff's compensation as provided in this section from the county general fund in the manner that salaries of other county officials are paid. ~~However,~~ **Subject to section 17 of this chapter,** the sheriff may retain the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3).

(b) If a county pays a sheriff's compensation under this section, the county fiscal body shall make an appropriation in the usual manner from the county general fund for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from

the appropriation.

(c) **Subject to section 17 of this chapter,** a county that pays a sheriff's compensation under this section shall pay the sheriff as follows:

(1) In a county having a population of not more than twenty thousand (20,000), the county must pay the sheriff an annual salary that is equal to at least fifty percent (50%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(2) In a county having a population of:

(A) more than twenty thousand (20,000); and

(B) not more than forty thousand (40,000);

the county must pay the sheriff an annual salary that is equal to at least sixty percent (60%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(3) In a county having a population of:

(A) more than forty thousand (40,000); and

(B) not more than sixty-five thousand five hundred (65,500);

the county must pay the sheriff an annual salary that is equal to at least seventy percent (70%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(4) In a county having a population of:

(A) more than sixty-five thousand five hundred (65,500); and

(B) not more than one hundred thousand (100,000);

the county must pay the sheriff an annual salary that is equal to at least eighty percent (80%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(5) In a county having a population of:

(A) more than one hundred thousand (100,000); and

(B) not more than two hundred thousand (200,000);

the county must pay the sheriff an annual salary that is equal to at least ninety percent (90%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(6) In a county having a population of more than two hundred

thousand **(200,000),** the county must pay the sheriff an annual salary that is equal to at least one hundred percent (100%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

SECTION 4. IC 36-2-13-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 17. (a) This section applies to the following:**

(1) A contract entered into under section 2.5 of this chapter with a sheriff who is elected or reelected to office after November 1, 2010.

(2) Any other form of annual compensation provided to a sheriff who is elected or reelected to office after November 1, 2010.

(b) The total amount of a sheriff's annual compensation from:

(1) the county general fund;

(2) any tax warrant collection fees retained by the sheriff under IC 6-8.1-8-3; and

(3) any other public source;

may not exceed the amount determined under subsection (c). For purposes of this subsection, "any other public source" does not include retirement or disability benefits from a federal, a state, or another state's local governmental retirement or disability program, whether the retirement or disability benefit is based on prior employment by the sheriff or another individual, nor does it include worker's compensation benefits paid to the sheriff.

(c) To determine the maximum amount of a sheriff's annual compensation, a county fiscal body shall determine the sum of the following:

(1) The annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(2) The amount of any additional annual salary paid by the county from county sources to a full-time prosecuting attorney in the county.

P.L.41-2008
[H.1113. Approved March 10, 2008.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-37-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. A person who, with intent to defraud:

(1) makes a false or fraudulent statement in applying to a local health officer or to the state registrar for a certified copy of a birth certificate;

(2) makes a false or fraudulent statement in applying to the state registrar for permission to inspect public birth records held by the state registrar;

(3) alters, counterfeits, or mutilates a certified copy of a birth certificate issued by a local health officer or by the state registrar; or

(4) uses an altered, a counterfeit, or a mutilated certified copy of a birth certificate;

commits a ~~Class A misdemeanor.~~ **Class D felony.**

SECTION 2. [EFFECTIVE JULY 1, 2008] **IC 16-37-1-12, as amended by this act, applies only to crimes committed after June 30, 2008.**

P.L.42-2008
[H.1124. Approved March 10, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 36-8-10-16, AS AMENDED BY P.L.97-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children under eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining appropriate insurance coverage, or both. However, the department may not establish or modify a dependent's pension benefit after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

(1) died before January 1, 1990; and

(2) were covered by a benefit plan established under this section.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars ($200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent children is thirty dollars ($30) per child and ceases with the last payment before attaining eighteen (18) years of age.

(c) This subsection applies to survivors of employee beneficiaries who:

(1) died after December 31, 1989; and

(2) were covered by a benefit plan established under this section. The monthly pension payable to dependent parents or surviving spouses must be not less than two hundred dollars ($200) for each month during the parent's or the spouse's lifetime. The monthly pension payable to each dependent child must be not less than thirty dollars ($30) for each child and ceases with the last payment before attaining eighteen (18) years of age.

(d) The county fiscal body may by ordinance provide an increase in the monthly pension of survivors of employee beneficiaries who die before January 1, 1990. However, the monthly pension that is provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(e) In order to be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of the employee's retirement or death in service.

(f) In addition to, or instead of, a modification of a surviving spouse's monthly pension under this section, a county fiscal body may approve a cost of living payment to a surviving spouse under section 23 of this chapter.

SECTION 2. IC 36-8-10-23, AS AMENDED BY P.L.99-2007, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies to a county that adopts the provisions of this section by an ordinance of the county fiscal body.

(b) The county fiscal body may provide for:

(1) an annual cost of living payment to employee beneficiaries who are retired or have a disability, or both; or

(2) an ad hoc cost of living payment to employee beneficiaries who are retired or have a disability, or both. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 12 or 12.1 of this chapter.

(c) In addition to, or instead of, a modification of a surviving spouse's monthly pension under section 16 of this chapter, the county fiscal body may provide for:

(1) an annual cost of living payment to a surviving spouse; or

(2) an ad hoc cost of living payment to a surviving spouse.

~~(c)~~ **(d)** In the case of an annual cost of living payment granted under subsection (b)(1) **or (c)(1),** the amount of the cost of living payment shall be determined each year by the pension engineers under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

~~(d)~~ **(e)** In the case of a cost of living payment granted under subsection (b)(2) **or (c)(2),** the amount of the cost of living payment shall be determined by the county fiscal body and may be:

(1) a percentage increase, not to exceed the percentage determined under subsection ~~(c),~~ **(d);** or

(2) a fixed dollar amount.

~~(e)~~ **(f)** A payment authorized under this section shall be made to each:

(1) authorized employee beneficiary who is retired or has a disability; **or**

(2) surviving spouse;

and may be made annually, semiannually, quarterly, or monthly.

~~(f)~~ **(g)** A cost of living payment granted under this section shall be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

~~(g)~~ **(h)** A cost of living payment granted under this section is applicable only to **the following:**

(1) Employee beneficiaries who:

~~(1)~~ **(A)** are retired or have a disability; and

~~(2)~~ **(B)** are at least fifty-five (55) years of age.

(2) A surviving spouse.

~~(h)~~ **(i)** No provision of this section shall be made part of any ordinance or agreement concerning collective bargaining. No provision

of this section shall be subject to bargaining under any statute, ordinance, or agreement.

P.L.43-2008
[H.1288. Approved March 10, 2008.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-41 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 41. BEHAVIOR ANALYSTS

Chapter 1. Penalty for Activity by Noncertified Individuals

Sec. 1. An individual may not:

(1) profess to be a certified behavior analyst; or

(2) use the initials "BCBA" or any other words, letters, abbreviations, or insignia indicating or implying that the individual is a certified behavior analyst;

unless the individual holds and maintains the certified behavior analyst credentials administered by the Behavior Analyst Certification Board, Inc. (BACB).

Sec. 2. An individual who knowingly, intentionally, or recklessly violates this chapter commits a Class B misdemeanor.

P.L.44-2008
[S.27. Approved March 12, 2008.]

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

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

SECTION 1. IC 35-33-1-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.7. (a) A facility having custody of a person arrested for a crime of domestic violence (as described in IC 35-41-1-6.3) shall keep the person in custody for at least eight (8) hours from the time of the arrest.**

(b) A person described in subsection (a) may not be released on bail until at least eight (8) hours from the time of the person's arrest.

SECTION 2. IC 35-33-8-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.5. The court may not release a person arrested for a crime of domestic violence (as described in IC 35-41-1-6.3) on bail until at least eight (8) hours from the time of the person's arrest.**

P.L.45-2008
[S.111. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-26-13-10, AS AMENDED BY P.L.229-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. Except as provided in section 11 of this chapter, the four (4) year graduation rate for a cohort in a high school is the percentage determined under STEP FIVE of the following formula:

STEP ONE: Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

STEP TWO: Add:

(A) the number determined under STEP ONE; and

(B) the number of students who:

(i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined; and

(ii) have the same expected graduation year as the cohort.

STEP THREE: Subtract from the sum determined under STEP TWO the number of students who have left the cohort for any of the following reasons:

(A) Transfer to another public or nonpublic school.

(B) Removal by the student's parents under IC 20-33-2-28 to provide instruction equivalent to that given in the public schools.

(C) Withdrawal because of a long term medical condition or death.

(D) Detention by a law enforcement agency or the department of correction.

(E) Placement by a court order or the department of child services.

(F) Enrollment in a virtual school.

(G) Leaving school, if the student attended school in Indiana for less than one (1) school year and the location of the student cannot be determined.

(H) Leaving school, if the location of the student cannot be determined and the student has been reported to the Indiana clearinghouse for information on missing children.

(I) Withdrawing from school before graduation, if the student is a high ability student (as defined in IC 20-36-1-3) who is a full-time student at an accredited institution of higher education during the semester in which the cohort graduates.

STEP FOUR: Determine the total number of students **determined under STEP TWO** who have graduated during the current reporting year **or a previous reporting year.**

STEP FIVE: Divide:

(A) the number determined under STEP FOUR; by

(B) the remainder determined under STEP THREE.

SECTION 2. IC 20-26-13-10.7, AS ADDED BY P.L.229-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.7. For purposes of determining a graduation rate under sections 10, 10.2, and 10.5 of this chapter, a student may be counted as **a member of only one (1) cohort and as** graduating **during** only ~~during any~~ one (1) reporting year.

SECTION 3. IC 20-26-13-12, AS AMENDED BY P.L.229-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. For each high school, the department shall calculate an estimated graduation rate that is determined by the total number of graduates for the reporting year divided by the total number of students enrolled in grade 9 at the school three (3) years before the reporting year. For any school where the difference between the estimated graduation rate and the number determined under STEP ~~SEVEN~~ **FIVE** of section 10 of this chapter is more than five percent (5%), the department shall request the data used in determining that the missing students are classified under one (1) or more of clauses (A) through (I) of STEP THREE of section 10 of this chapter.

P.L.46-2008
[S.117. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-13-3-4, AS AMENDED BY P.L.216-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

and

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.

SECTION 2. IC 11-13-3-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The period of parole for offenders sentenced for offenses under laws other than IC 35-50 is as follows:

(1) A person released on parole from an indeterminate term of imprisonment remains on parole until the expiration date of ~~his~~ **the** term of imprisonment, except that the parole board may discharge ~~him~~ **the person** from that term any time after ~~his~~ **the person's** release on parole.

(2) A person released on parole from a determinate term of imprisonment remains on parole until ~~his~~ **the** determinate term expires, except that the parole board may discharge ~~him~~ **the person** from that term any time after ~~his~~ **the person's** release on parole.

(3) A person released on parole from a term of life imprisonment remains on parole for life, except that the parole board may discharge ~~him~~ **the person** at any time after ~~his~~ **the person's** release on parole.

(b) When parole is terminated by discharge, the parole board shall enter an order discharging the person from parole and term of imprisonment. A copy of the order shall be given to the discharged person. ~~and a copy shall be forwarded to the clerk of the sentencing court. Upon receipt of the order, the clerk shall make an entry on the record of judgment that the sentence has been satisfied.~~

P.L.47-2008
[S.118. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-8-2-7, AS AMENDED BY P.L.246-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 7. (a) The commissioner shall determine which state owned or operated correctional facilities are to be maintained for criminal offenders and which are to be maintained for delinquent offenders.

(b) The commissioner shall determine which state owned or operated correctional facilities need, for effective management, administration by a superintendent. The commissioner shall appoint a superintendent for each correctional facility. However, the commissioner may appoint a person as superintendent of two (2) or more facilities if the commissioner finds that it would be economical to do so and would not adversely effect the management of the facilities.

(c) **Except as provided in subsection (d),** a superintendent must hold at least a bachelor's degree from an accredited college or university. ~~and~~

(d) If a superintendent does not hold at least a bachelor's degree from an accredited college or university, the superintendent must have at least ten (10) years of experience in public safety work.

(e) In addition to the requirements described in subsections (c) and (d), a superintendent must have held a management position in correctional or related work for a minimum of five (5) years. A superintendent is entitled to a salary to be determined by the budget agency with the approval of the governor. A superintendent may be dismissed for cause by the commissioner.

~~(d)~~ **(f)** If a superintendent position becomes vacant, the commissioner may appoint an acting superintendent to discharge the duties and powers of a superintendent on a temporary basis.

P.L.48-2008
[S.139. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 35-38-2-3, AS AMENDED BY P.L.156-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The court may revoke a person's probation if:

(1) the person has violated a condition of probation during the probationary period; and

(2) the petition to revoke probation is filed during the probationary period or before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) When a petition is filed charging a violation of a condition of probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) The court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing.

(e) The state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

(f) Probation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the

person unless the person recklessly, knowingly, or intentionally fails to pay.

(g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may **impose one (1) or more of the following sanctions:**

(1) Continue the person on probation, with or without modifying or enlarging the conditions.

(2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period. ~~or~~

(3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

(h) If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

(1) order ~~a sanction~~ **one (1) or more sanctions** as set forth in subsection (g); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(i) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

(1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or

(2) order execution of all or part of the sentence that was suspended at the time of the initial sentencing.

(j) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

(1) order a sanction as set forth in subsection (i); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(k) A judgment revoking probation is a final appealable order.

(l) Failure to pay fines or costs required as a condition of probation may not be the sole basis for commitment to the department of correction.

(m) Failure to pay fees or costs assessed against a person under IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for revocation of probation.

SECTION 2. IC 35-38-2.5-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.5. (a) **Except as provided in subsection (b),** a court **in one (1) county** may not place an offender who resides in ~~a different~~ **another** county on home detention ~~unless:~~ **in the other county unless:**

(1) the offender is eligible for home detention in the county in which the person resides; and

(2) supervision of the offender will be conducted by the probation department or community corrections program located in the county in which the offender resides.

~~(b) If an offender is:~~

~~(1) currently serving home detention in a county that operates a home detention program; and~~

~~(2) being supervised by a probation department or community corrections program located in a different county;~~

~~the court shall order that supervision of the offender be transferred to the probation department or community corrections program located in the county where the offender resides.~~

(b) If the offender described in subsection (a) resides in a county that is adjacent to the county in which the sentencing court is located, the supervision of the offender may be conducted by either the:

(1) probation department; or

(2) community corrections program;

located in the county in which the sentencing court is located.

(c) All home detention fees described in section 8 of this chapter shall be collected by the probation department or community corrections program that supervises the offender.

(d) A probation department or community corrections program that supervises an offender on home detention is responsible for the expenses of the supervision.

P.L.49-2008
[S.153. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-14-1-27.5, AS AMENDED BY P.L.1-2006, SECTION 434, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The board may issue an instructor's license to an individual who is not otherwise licensed to practice dentistry in Indiana if the individual meets the following conditions:

(1) The individual has been licensed or has had the equivalent of a license for five (5) of the preceding nine (9) years to practice dentistry in the United States or in any country, territory, or other recognized jurisdiction.

(2) The individual has been approved under the credentialing process of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry that is accredited by:

(A) the American Dental Association Commission on Dental Accreditation; or

(B) the Joint Commission on Accreditation of Health Care Organizations.

(3) The individual has successfully documented or demonstrated clinical and academic competency to the board.

(4) The individual is fluent in the English language.

(5) The individual passes the written law examination administered by the board.

(6) The individual meets the continuing education requirements required by IC 25-14-3.

(7) The individual pays the licensing fee set by the board under subsection (f).

(b) A license issued under this section must be held by the Indiana school of dentistry for which the licensee is employed.

(c) A license issued under this section does not meet the requirements of section 16 of this chapter and may not be used to obtain a general dentistry license under this article.

(d) A licensee under this section may teach and practice dentistry only at or on behalf of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry.

(e) An instructor's license is valid only during the time the licensee is employed or has a valid employment contract for a full-time faculty position at the Indiana school of dentistry or an affiliated medical center. The Indiana school of dentistry or the affiliated medical center shall notify the board in writing upon the termination of the employment contract of an individual who is issued a license under this section and surrender the license not later than thirty (30) days after the licensee's employment ceases.

(f) The board shall set a fee for the issuance and renewal of a license under this section.

(g) Unless renewed, a license issued by the board under this section expires annually on a date specified by the agency under IC 25-1-5-4. An applicant for renewal must pay the renewal fee set by the board on or before the renewal date specified by the agency.

(h) Not more than five percent (5%) of the Indiana school of dentistry's full-time faculty may be individuals licensed under this section.

(i) The board shall adopt rules under IC 4-22-2 necessary to implement this section.

(j) This section expires June 30, ~~2008.~~ **2013.**

SECTION 2. **An emergency is declared for this act.**

P.L.50-2008
[S.175. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-23-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) As used in this section, "contractor" refers to a person who provides professional services under a contract with the department.**

(b) As used in this section, "professional services" refers to engineering, architectural, or surveying services.

(c) Notwithstanding any provision of IC 26-2-5-1 to the contrary, the department may not require a contractor to assume any liability or indemnify the state for any amount greater than the degree of fault of the contractor.

(d) Any contractual provision in conflict with the prohibitions contained in subsection (c) is void and unenforceable.

SECTION 2. IC 8-23-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **Notwithstanding any other statute or rule adopted by the department,** the department may accept a proposal and award a contract for the construction, improvement, or maintenance of a road if:

(1) the ~~bids are~~ **lowest responsive and qualified bid is:**

(A) less than one million dollars ($1,000,000);

(B) one (1) of four (4) or more bids received by the department for the contract; or

(C) not more than ~~five percent (5%)~~ **fifteen percent (15%)** above the estimated cost of the project;

(2) the commissioner believes that awarding a contract under this section is in the best interests of the state; and

(3) the award would comply with any requirement imposed under section 13 of this chapter.

SECTION 3. IC 34-30-2-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26.5. IC 8-23-2-12.5 (Concerning contractors providing services to the Indiana department of transportation).**

SECTION 4. **An emergency is declared for this act.**

P.L.51-2008
[S.207. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 5-14-3-2, AS AMENDED BY P.L.179-2007, SECTION 7, AND AS AMENDED BY P.L.227-2007, SECTION 57, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section

6(c) of this chapter.

(d) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(e) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(f) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(g) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(h) "Investigatory record" means information compiled in the course of the investigation of a crime.

(i) "Offender" means a person confined in a penal institution as the result of the conviction for a crime.

~~(i)~~ **(j)** "Patient" has the meaning set out in IC 16-18-2-272(d).

~~(j)~~ **(k)** "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

~~(k)~~ **(l)** "Provider" has the meaning set out in ~~*IC 16-18-2-295(a)*~~ *IC 16-18-2-295(b)* and includes employees of the state department of health or local boards of health who create patient records at the

request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

~~(l)~~ **(m)** "Public agency", *except as provided in section 2.1 of this chapter,* means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts *that is required by statute, rule, or regulation.*

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department

of natural resources, gaming agents of the Indiana gaming commission, *gaming control officers of the Indiana gaming commission,* and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

~~(m)~~ **(n)** "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

~~(n)~~ **(o)** "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

~~(o)~~ **(p)** "Trade secret" has the meaning set forth in IC 24-2-3-2.

~~(p)~~ **(q)** "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.172-2007, SECTION 1, AND AS AMENDED BY P.L.179-2007, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The following public records

are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

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

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

(4) Records containing trade secrets.

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

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

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

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

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

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

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

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

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

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

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

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

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

(A) a public agency;

(B) the state; or

(C) an individual.

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

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

(5) The following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) Library or archival records:

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

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

(i) to qualified researchers;

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

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

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

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

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

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

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

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and

surface water intakes;

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

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

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

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

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

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

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant

contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) the victim of a crime; or

(iii) a family member of a correctional officer or the victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

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

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

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

P.L.52-2008
[S.223. Approved March 12, 2008.]

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 6-3.1-29-19, AS AMENDED BY P.L.175-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 19. (a) The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(6) For a project involving a qualified investment in an integrated coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal, **unless the applicant wishes to assign the tax credit as allowed under section 20.5(c) of this chapter and the applicant certifies to the corporation that partial use of other coal is necessary to result in lower rates for Indiana retail utility customers;** or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

SECTION 2. IC 8-1-2-42.1, AS ADDED BY P.L.175-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 42.1. (a) As used in this section, "substitute natural gas" means pipeline quality gas produced

by a facility ~~in Indiana~~ that uses a gasification process to convert coal ~~from the geological formation known as the Illinois Basin~~ into a gas capable of being used:

(1) by a utility to supply gas utility service to end use consumers in Indiana; or

(2) as a fuel used by a utility to produce electric power to supply electric utility service to end use consumers in Indiana.

(b) As used in this section, "customer choice program" means a program under which ~~certain~~ residential and commercial ~~gas~~ consumers located in the service area of a gas **or electric** utility may:

(1) ~~elect to~~ purchase their ~~gas~~ supply from a provider other than the ~~gas~~ utility in the service area; and

(2) receive transportation service from the ~~gas~~ utility in the service area for the delivery of the ~~gas~~ **supply** purchased under subdivision (1) to the consumer's premises.

(c) Subject to IC 8-1-8.9 and notwithstanding any other law, if the commission approves a contract for the purchase of substitute natural gas, or electricity generated in connection with the production of substitute natural gas, by a utility, the commission shall allow the utility to recover the following costs on a timely basis throughout the term of the contract:

(1) All costs incurred in connection with and resulting from the utility's purchases under the contract, including the cost of the substitute natural gas and related costs for generation, transmission, transportation, and storage services.

(2) All costs the utility incurs in obtaining replacement gas if the seller fails to deliver substitute natural gas required to be delivered under the contract, including the price of the gas, and related transportation, storage, and hedging costs, to the extent those costs are not paid by the seller.

(3) Upon petition by the utility, any other costs the commission finds are reasonably necessary in association with the contract.

(d) Any costs recovered under subsection (c):

(1) are in addition to the recovery of other costs; and

(2) shall be made through an adjustment under section 42 of this chapter or another rate adjustment mechanism that allows for comparable timely cost recovery.

(e) If a customer choice program is implemented, expanded, or

renewed for a utility during the term of a contract approved by **order of** the commission under subsection (c) that has the effect of reducing the utility's sales volumes, a condition of the authorization of that program must be the proportionate assignment of the gas or electric utility's substitute natural gas purchase obligation to the service providers in the customer choice program **that meets the assignment requirements in the approved contract.**

(f) Regardless of changes in market conditions or other circumstances, the commission may not take any action during the term of a contract approved under this section that adversely affects a utility's right to timely recover costs under this section or to otherwise fully recover such costs.

(g) With respect to utilities that are parties to a contract for the purchase of substitute natural gas approved by the commission under this section, the state covenants and agrees that as long as the contract is in effect the state will not limit, alter, or impair a utility's right to recover costs as provided in this section. Notwithstanding any other law, neither the commission nor any other state agency, political subdivision, or governmental unit may take any action that would have the effect of limiting, altering, or impairing a utility's right to recover costs as provided in this section.

SECTION 3. **An emergency is declared for this act.**

P.L.53-2008

[S.104. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-28-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section

does not apply to the reconstruction of a residence located in a boundary river floodway.

(b) A person may not begin the reconstruction of an abode or a residence that ~~(1)~~ is located in a floodway and ~~(2)~~ is substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1993) ~~by a means other than floodwater;~~ unless the person has:

(1) obtained a permit under this section or section 26.5 of this chapter; **or**

(2) demonstrated to the department through the submission of material facts, plans, and specifications that the material used to elevate the reconstructed abode or residence:

(A) does not extend beyond the original foundation of the abode or residence; and

(B) meets the criteria set forth in subsection (d)(2) through (d)(7).

(c) A person who desires to reconstruct an abode or a residence ~~described in subsection (b)~~ **that does not meet the requirements under subsection (b)(2)** must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars ($50). An application submitted under this section must do the following:

(1) Set forth the material facts concerning the proposed reconstruction.

(2) Include the plans and specifications for the reconstruction.

(d) The director may issue a permit to an applicant under this section only if the applicant has clearly proven all of the following:

(1) The abode or residence will be reconstructed:

(A) in the area of the original foundation and in substantially the same configuration as the former abode or residence; or

(B) in a location that is, as determined by the director, safer than the location of the original foundation.

(2) The lowest floor elevation of the abode or residence as reconstructed, including the basement, will be at ~~or~~ **least two (2) feet** above the one hundred (100) year flood elevation.

(3) The abode or residence will be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(4) The abode or residence will be reconstructed with materials resistant to flood damage.

(5) The abode or residence will be reconstructed by methods and practices that minimize flood damages.

(6) The abode or residence will be reconstructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located to prevent water from entering or accumulating within the components during conditions of flooding.

(7) The abode or residence, as reconstructed, will comply with the minimum requirements for floodplain management set forth in 44 CFR Part 60, as in effect on January 1, 1993.

(e) When granting a permit under this section, the director may establish and incorporate into the permit certain conditions and restrictions that the director considers necessary for the purposes of this chapter.

(f) A permit issued by the director under this section is void if the reconstruction authorized by the permit is not commenced within two (2) years after the permit is issued.

(g) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected by the permit.

(h) The person to whom a permit is issued under this section shall post and maintain the permit at the site of the reconstruction authorized by the permit.

(i) A person who knowingly:

(1) begins the reconstruction of an abode or a residence in violation of subsection (b);

(2) violates a condition or restriction of a permit issued under this section; or

(3) fails to post and maintain a permit at a reconstruction site in violation of subsection (h);

commits a Class B infraction. Each day that the person is in violation of subsection (b), the permit, or subsection (h) constitutes a separate infraction.

SECTION 2. IC 14-28-1-25 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A person who desires to reconstruct an abode or a residence that:

(1) is located in a floodway; and

(2) is not substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1997); ~~by a means other than floodwater;~~

is not required to obtain a permit from the department for the reconstruction of the abode or residence if the reconstruction will meet the requirements set forth in 44 CFR Part 60, as in effect on January 1, 1997.

(b) A person who knowingly reconstructs an abode or a residence described in subsection (a) in a way that does not comply with the requirements referred to in subsection (a) commits a Class B infraction.

SECTION 3. IC 14-28-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The administrative control of the fund and the responsibility for the administration of this chapter are vested ~~jointly in the state board of finance and~~ **in** the commission. The commission may do the following:

(1) ~~Subject to the approval of the state board of finance,~~ Adopt rules under IC 4-22-2 that are considered necessary by ~~the state board of finance and~~ the commission for the proper administration of the fund and this chapter.

(2) Subject to the approval of the budget committee, employ the personnel that are necessary for the efficient administration of this chapter.

SECTION 4. IC 14-28-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The commission may ~~subject to the final approval of the state board of finance, order the auditor of state to~~ make an approved loan from the fund to a local unit. The money loaned is to be used by the local unit for the purpose of instituting, accomplishing, and administering an approved flood control program.

(b) The total amount outstanding under loans made under:

(1) this chapter; and

(2) IC 13-2-23 (before its repeal);

to one (1) local unit may not exceed three hundred thousand dollars ($300,000).

SECTION 5. IC 14-28-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A local unit may

institute, accomplish, and administer a flood control program if the following conditions are met:

(1) The program is authorized and approved by ordinance or resolution enacted by the governing board of the local unit.

(2) The flood control program has been approved by ~~the state board of finance and~~ the commission.

SECTION 6. IC 14-28-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The ~~state board of finance and the~~ commission shall authorize the making of a loan to a local unit under this chapter only when the following conditions exist:

(1) An application for the loan has been submitted by the local unit in a verified petition to ~~the state board of finance and~~ the commission in the manner and form that ~~the state board of finance and~~ the commission ~~direct.~~ **directs.** The application must state the following:

(A) The need for the flood control program and the need for money for instituting, accomplishing, and administering the program.

(B) A detailed description of the program.

(C) An engineering estimate of the cost of the proposed program acceptable to ~~the state board of finance and~~ the commission.

(D) The amount of money considered to be needed.

(E) Other information that is requested by ~~the state board of finance and~~ the commission.

(2) There is a need, as determined by ~~the state board of finance and~~ the commission, for the proposed flood control program for the purpose of protecting the health, safety, and general welfare of the inhabitants of the local unit.

(3) The proposed flood control program has been approved by ~~the state board of finance and~~ the commission, if before granting the approval, ~~the state board of finance and~~ the commission ~~determine~~ **determines** the following:

(A) That the program:

(i) is based upon sound engineering principles;

(ii) is in the interest of flood control; and

(iii) will accomplish the objectives of flood control.

(B) That for flood control programs involving the

reconstruction or repair of existing flood control works that:

(i) in the judgment of ~~the state board of finance and~~ the commission, ~~constitute~~ **constitutes** an unreasonable obstruction or impediment to the proper discharge of flood flows; or

(ii) by virtue of their nature, location, or design, are subject to frequent damage or destruction;

approval is limited to the work that is necessary to afford emergency protection against actual or threatened damage to life and property.

(4) The local unit agrees and furnishes assurance, satisfactory to ~~the state board of finance and~~ the commission, that the local unit will operate and maintain the flood control program, after completion, in a satisfactory manner.

SECTION 7. IC 14-28-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The local unit may:

(1) do work; and

(2) provide labor, equipment, and materials from any source at the local unit's disposal;

for the flood control program.

(b) The ~~state board of finance and the~~ commission may do the following:

(1) Evaluate the participation of the local unit in the accomplishment of the project.

(2) Compute the participation as a part or all of the share of cost that the local unit is required to pay toward the total cost of the project for which the loan from the fund is obtained.

(c) Participation authorized under this section must be under the direction of the governing board.

(d) If cash amounts are included in the local unit's share of total cost, the amounts shall be provided in the usual and accepted manner for the financing of the affairs of the local unit.

(e) Costs of engineering and legal services to the borrower may be regarded as a part of the total cost of the project.

SECTION 8. IC 14-28-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The ~~state board of finance and the~~ commission shall determine and ascribe to

each applicant for a loan a priority rating. The rating must be based primarily on the need of the local unit for the proposed flood control program as the need is related to the needs of other applicants for loans. Except as provided in subsection (b):

(1) the local units having the highest priority rating shall be given first consideration in making loans under this chapter; and

(2) loans shall be made in descending order as shown by the priority ratings.

(b) If an emergency demands immediate relief from actual or threatened flood damage, the application made by a local unit for a loan may be considered regardless of a previous priority rating ascribed to the applicant.

SECTION 9. IC 14-28-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. If a local unit fails to make a payment to the fund or any other payment required by this chapter or under IC 13-2-23 (before its repeal) or is in any way indebted to the fund for an amount incurred or accrued, the state may recover the amount through any of the following:

(1) The state may, through the attorney general and on behalf of ~~the state board of finance and~~ the commission, file a suit in the circuit or a superior court with jurisdiction in the county in which the local unit is located to recover the amount that the local unit owes the fund.

(2) The auditor of state may, after a sixty (60) day written notice to the local unit, withhold the payment and distribution of state money that the defaulting local unit is entitled to receive under Indiana law.

(3) For a special taxing district, upon certification by the auditor of state after a sixty (60) day written notice to the special taxing district, the auditor of each county containing land within the special taxing district shall withhold collected tax money for the special taxing district and remit the withheld tax money to the auditor of state. The auditor of state shall make a payment to the fund in the name of the special taxing district. Upon elimination of the delinquency payment, the auditor of state shall certify the fact to the auditors of the counties involved and any additional withheld tax money shall be released to the special taxing district.

SECTION 10. **An emergency is declared for this act.**

P.L.54-2008
[S.107. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

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

SECTION 1. IC 7.1-3-1-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 23.5. An instructor teaching a class on wine appreciation at an accredited college or university (as described under IC 24-4-11-2) may purchase, acquire, possess, and dispense wine for educational purposes within the class without a permit under this title.**

SECTION 2. IC 7.1-3-12-4, AS AMENDED BY P.L.165-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. In order to be considered a "farm winery" within the meaning of this title and to be eligible to receive a farm winery permit, a wine-making establishment shall not annually sell more than ~~five hundred thousand (500,000)~~ **one million (1,000,000)** gallons of wine in Indiana, excluding wine shipped to an out-of-state address.

SECTION 3. IC 7.1-3-26-7, AS ADDED BY P.L.165-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The commission may issue a direct wine seller's permit to an applicant who meets all of the following requirements:

(1) The applicant is domiciled and has its principal place of business in the United States.

(2) The applicant is engaged in the manufacture of wine.

(3) The applicant holds and acts within the scope of authority of an alcoholic beverage license or permit to manufacture wine that is required:

(A) in Indiana or the state where the applicant is domiciled; and

(B) by the Tax and Trade Bureau of the United States Department of the Treasury.

(4) The applicant qualifies with the secretary of state to do business in Indiana and consents to the personal jurisdiction of the commission and the courts of Indiana.

(5) The applicant files a surety bond with the commission in accordance with IC 7.1-3-1, or deposits cash in an escrow account with the commission, in the amount required of an applicant for a vintner's permit under IC 7.1-3-1-7.

(6) The applicant:

(A) does not hold a permit or license to wholesale alcoholic beverages issued by any authority; and

(B) is not owned in whole or in part or controlled by a person who holds a permit or license to wholesale alcoholic beverages.

(7) The applicant sells not more than ~~five hundred thousand (500,000)~~ **one million (1,000,000)** gallons of wine per year in Indiana, excluding wine shipped to an out-of-state address.

(8) The applicant:

(A) has not distributed wine through a wine wholesaler in Indiana within the one hundred twenty (120) days immediately preceding the applicant's ~~initial~~ application for a direct wine seller's permit ~~or the applicant~~ **and does not distribute wine through a wine wholesaler in Indiana during the term of the direct wine seller's permit; or**

(B) has operated as a farm winery under IC 7.1-3-12.

(9) The applicant is not the parent, subsidiary, or affiliate of another entity manufacturing any alcoholic beverage.

(10) The applicant completes documentation regarding the applicant's application required by the commission.

(b) The commission may issue a direct wine seller's permit to an applicant who:

(1) meets the requirements under subsection (a); and

(2) holds a permit issued under this title that allows the sale of an alcoholic beverage at retail.

P.L.55-2008
[S.159. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-37.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 37.3. Third Party Rights and Responsibilities Under Health Care Contracts

Sec. 1. Unless otherwise specified in this chapter, the definitions in IC 27-8-11-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "affiliate" has the meaning set forth in IC 27-1-25-1.

Sec. 3. As used in this chapter, "contractor" refers to a person with a primary business purpose of entering into health care contracts with providers.

Sec. 4. As used in this chapter, "covered individual" means an individual who is entitled to coverage under a health plan.

Sec. 5. (a) As used in this chapter, "health plan" means a plan through which coverage is provided for health care services through insurance, prepayment, reimbursement, or otherwise. The term includes the following:

(1) An employee welfare benefit plan (as defined in 29 U.S.C. 1002 et seq.).

(2) A policy of accident and sickness insurance (as defined in IC 27-8-5-1).

(3) An individual contract (as defined in IC 27-13-1-21) or a group contract (as defined in IC 27-13-1-16).

(b) The term does not include the following:

(1) Accident-only, credit, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

Sec. 6. As used in this chapter, "health care contract" means a contract between a person and a provider specifying the rights and responsibilities of the:

(1) person; and

(2) provider;

in relation to payment for and delivery of health care services to a covered individual.

Sec. 7. A contractor may not lease, rent, or otherwise grant access to a provider's health care services under a health care contract unless the contractor complies with one (1) of the following:

(1) The third party to which the access is granted is:

(A) an employer or another entity providing coverage for health care services to the employer's or entity's employees or members and the entity has a contract with the contractor or the contractor's affiliate for the administration or processing of claims for payment or service provided under the health care contract; or

(B) an affiliate or a subsidiary of the contractor or providing administrative services to or receiving administrative services from the contractor or the contractor's affiliate or subsidiary.

(2) The:

(A) health care contract specifically states that the contractor may lease, rent, or otherwise grant access to the provider's health care services under the health care contract;

(B) third party accessing the health care contract is:

(i) a payer or third party administrator or another entity that administers claims on behalf of the payer;

(ii) a preferred provider organization or preferred provider network, including a physician-hospital organization; or

(iii) an entity engaged in the electronic claims transport between the contractor and the payer; and

(C) third party that is granted access to the provider's health care services under the health care contract is obligated to comply with all the applicable terms of the health care contract.

Sec. 8. (a) A contractor that leases, rents, or otherwise grants access to a provider's health care services as described in section 7(2) of this chapter shall maintain an Internet web page or a toll free telephone number through which the provider may obtain a listing, updated at least semiannually, of the third parties to which access to the provider's health care services has been granted.

(b) A contractor shall, at the time a health care contract is entered into with a provider, identify and provide any preferred provider organization, preferred provider network, physician hospital organization, or other entity identified in section 7(2)(B)(ii) of this chapter that is known at the time of contracting, to which the contractor will grant access to the provider's health care services under section 7 of this chapter.

Sec. 9. A contractor that leases, rents, or otherwise grants access to a provider's health care services under section 7 of this chapter shall ensure that an explanation of benefits or remittance advice furnished to the provider that delivers health care services under the health care contract identifies the contractual source of any discount that applies.

Sec. 10. Subject to applicable continuity of care requirements, a third party's right to exercise a contractor's rights and responsibilities under a health care contract terminates on the date that the health care contract is terminated.

Sec. 11. A health care contract may provide for arbitration of disputes arising under this chapter.

SECTION 2. [EFFECTIVE JULY 1, 2008] **IC 27-1-37.3, as added by this act, applies to a health care contract (as defined in IC 27-1-37.3-6) that is entered into, amended, or renewed after June 30, 2008.**

P.L.56-2008
[S.192. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-5-25 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 25. Truth in Music Advertising

Sec. 1. As used in this chapter, "performing group" means a vocal or an instrumental group seeking to use the name of another group that has previously released a commercial sound recording under the name of the other group.

Sec. 2. As used in this chapter, "recording group" means a vocal or an instrumental group, at least one (1) of whose members has released a commercial sound recording under the group's name, and in which the member or members:

(1) have a legal right by virtue of use or operation under the group's name;

(2) have not abandoned the name; and

(3) have not abandoned affiliation with the group.

Sec. 3. As used in this chapter, "sound recording" means a work that results from the placement on a material object of a series of musical, spoken, or other sounds regardless of the nature of the material object, such as a compact disc, cassette, tape, or phonograph record, in which the sounds are placed.

Sec. 4. (a) Except as provided in subsection (b), a person, other than a media source that carries advertising or a press release for the performance or production, may not advertise or conduct a live musical performance or production in Indiana through actions that falsely, deceptively, or misleadingly imply the existence of an affiliation, a connection, or an association between a performing group and a recording group.

(b) This section does not apply if:

(1) the performing group is the authorized registrant and owner of a federal service mark for the recording group with the same name registered in the United States Patent and Trademark Office;

(2) at least one (1) member of the performing group was a member of the recording group and:

(A) has a legal right by virtue of use or operation under the group name;

(B) has not abandoned the name; and

(C) has not abandoned affiliation with the group;

(3) the live musical performance or production is identified in all advertising and promotion as a salute or tribute;

(4) the advertising does not relate to a live musical performance or production taking place in Indiana; or

(5) the performance or production is expressly authorized by the recording group.

Sec. 5. The attorney general or any aggrieved person may bring an action to enjoin a person from violating section 4 of this chapter. If an injunction is issued, the court may order the defendant to restore to any person in interest any money or property that was acquired by means of a violation of this chapter.

Sec. 6. A person who violates section 4 of this chapter commits a Class A infraction. Each performance or production in violation of section 4 of this chapter constitutes a separate violation.

P.L.57-2008
[S.241. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 6-6-10-7, AS AMENDED BY P.L.1-2006, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Before July 1 of each year, the department of state revenue shall distribute the money in the emergency planning and right to know fund as follows:

(1) Ten percent (10%) allocated to the emergency response commission and administered by the department of homeland security to be used to enhance communication among local emergency planning committees and between local emergency planning committees and the emergency response commission in order to strengthen joint hazardous material incident response capabilities. Money received as an allocation under this subdivision does not revert to the state general fund at the end of a state fiscal year.

(2) The distribution to the hazardous substance response fund established by IC 13-25-4-1 that is authorized for the year by the general assembly.

(3) A distribution of the remaining money as follows:

(A) To each county, two thousand five hundred dollars ($2,500).

(B) To each county, an additional distribution in an amount determined in STEP TWO of the following formula:

STEP ONE: Divide the amount available for distribution by the number of annual returns filed under section 6(b) of this chapter in the calendar year preceding the distribution.

STEP TWO: Multiply the quotient determined in STEP ONE by the number of facilities located in each county.

The department of state revenue may make a distribution to a county under this subdivision only after receiving notice from the emergency response commission that the local emergency planning committee for the county has met the requirements of IC 13-25-1-6(b).

(b) The revenue distributed to the county under this section shall be deposited in a separate fund established by the county for the purpose of:

(1) preparing and updating a comprehensive emergency response plan required under 42 U.S.C. 11003 for the county or emergency planning district;

(2) establishing and implementing procedures for receiving and processing requests from the public for information about hazardous chemicals under Title III of SARA (42 U.S.C. 11001 et seq.);

(3) training for emergency response planning, information management, and hazardous materials incident response;

(4) equipping a hazardous materials response team that provides at least a district wide emergency planning response if the equipment purchased is consistent with current training levels of the response team members;

(5) purchasing communication equipment for a local emergency planning committee's administrative use;

(6) paying an optional stipend to local emergency planning committee members who attend regularly scheduled meetings at which a quorum is present in an amount:

(A) determined by a majority of the local emergency planning committee membership; and

(B) that is not more than twenty dollars ($20) per member per meeting; ~~and~~

(7) paying for Title III risk communication, chemical accident related, and accident prevention projects submitted to and approved by the Indiana emergency response commission; **and**

(8) maintaining, repairing, and calibrating equipment purchased for a hazardous materials response team under subdivision (4).

However, revenue distributed to a county under this section may be used for the purpose set forth in subdivisions (3) through ~~(7)~~ **(8)** only

if the local emergency planning committee appointed for the county has prepared and submitted to the emergency response commission an emergency plan that meets the requirements of 42 U.S.C. 11003(a) and has received approval for the training programs from the emergency response commission.

(c) The fund established under subsection (b) shall be administered by the county executive. The expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the fiscal year remains in the fund and does not revert to any other fund.

(d) Money shall be appropriated by a county fiscal body (as defined in IC 36-1-2-6) from a fund established under subsection (b) upon the receipt by the county fiscal body of the local emergency planning committee's spending plan. The spending plan must:

(1) have been approved by a majority of the members of the local emergency planning committee; and

(2) conform with the provisions of this chapter.

The county fiscal body may not appropriate money from the fund established under subsection (b) for any person or purpose other than the local emergency planning committee.

(e) All equipment, apparatus, and supplies purchased with money from a fund established under subsection (b) remains under the direction and control of the local emergency planning committee.

SECTION 2. IC 10-14-4-5, AS AMENDED BY P.L.107-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state disaster relief fund is established to provide ~~money~~ **financial assistance** to:

(1) assist eligible entities in paying for:

(A) the costs of ~~damage to~~ **repairing, replacing, or restoring** public facilities or individual **residential real or personal** property ~~resulting from disasters.~~ **damaged or destroyed by a disaster; or**

(B) response costs incurred by an eligible entity during a disaster; and

(2) allow the agency to pay for response costs incurred by the

state or a local unit of government at the direction of the agency.

The agency may provide financial assistance in response to a disaster only from the balance in the fund that is unobligated on the date the disaster occurs.

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

(1) Money appropriated by the general assembly.

(2) Money deposited under IC 22-11-14-12(c)(2).

(c) The agency shall administer the fund. Expenses of administering the fund shall be paid from money in the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. ~~Interest that accrues from these investments shall be deposited in the fund.~~

~~(c)~~ **(d)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 3. IC 10-14-4-6, AS AMENDED BY P.L.107-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Subject to the restrictions under this chapter, the agency may use money in the fund to ~~make grants~~ **provide financial assistance as follows:**

(1) To an eligible entity that:

(A) is not an individual;

~~(1)~~ **(B)** contains territory for which a disaster emergency has been declared by the governor;

~~(2)~~ **(C)** has suffered damage to the entity's public facilities ~~or individual property~~ because of the disaster for which the disaster emergency was declared;

~~(3)~~ **(D)** has applied to the department for **financial assistance in the form of** a grant; and

~~(4)~~ **(E)** complies with all other requirements established by the agency.

(2) To an eligible entity:

(A) who is an individual;

(B) whose primary residence is located in territory for which:

(i) the governor declares a disaster emergency; or

(ii) the United States Small Business Administration

declares a disaster;

(C) who has suffered damage to the entity's primary residence or individual property because of a disaster described in clause (B); and

(D) who complies with all other requirements established by the agency.

SECTION 4. IC 10-14-4-13, AS ADDED BY P.L.107-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section applies only to an eligible entity that is an individual.

(b) To qualify for ~~a grant~~ **financial assistance** under this chapter, **including a grant,** an eligible entity must apply to the agency on forms provided by the agency. The application must include the following:

(1) A description and estimated cost of the damage caused by the disaster to the individual's property.

(2) The manner in which the individual intends to use the ~~grant money.~~ **financial assistance.**

(3) Any other information required by the agency.

SECTION 5. IC 10-15-3-12, AS ADDED BY P.L.107-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The regional public safety training fund is established for the purpose of providing regional and advanced training for public safety service providers. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. Any amount remaining in the fund at the end of a state fiscal year that ~~was not appropriated to the fund~~ **has not been encumbered** shall be transferred to the fire training infrastructure fund established by IC 22-14-6-2.

SECTION 6. IC 22-14-3-2, AS AMENDED BY P.L.1-2006, SECTION 373, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The division shall issue an

amusement and entertainment permit to an applicant who qualifies under section 3 of this chapter.

(b) A permit issued under section 3 of this chapter expires **as follows:**

(1) For a permit issued to a school under section 1(c) of this chapter, one (1) year after the date of issuance.

(2) For a permit other than a permit described in subdivision (1), December 31 in the year ~~it~~ **the permit** is issued.

The permit applies only to the place, maximum occupancy, and use specified in the permit.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The department of homeland security may adopt emergency rules to implement IC 10-14-4, including IC 10-14-4-5, IC 10-14-4-6, and IC 10-14-4-13, all as amended by this act, in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1.**

(b) An emergency rule adopted under this SECTION expires on the earlier of:

(1) the date that the department of homeland security adopts permanent rules under IC 4-22-2 to replace the emergency rules; or

(2) July 1, 2009.

(c) This SECTION expires July 1, 2009.

SECTION 8. [EFFECTIVE JULY 1, 2008] **(a) IC 22-14-3-2, as amended by this act, applies to amusement and entertainment permits issued after June 30, 2008.**

(b) This subsection applies to an amusement and entertainment permit issued before July 1, 2008. Notwithstanding IC 22-14-3-2, as amended by this act, an amusement and entertainment permit expires one (1) year after the date of issuance.

SECTION 9. **An emergency is declared for this act.**

P.L.58-2008
[S.316. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

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

SECTION 1. IC 25-38.1-1-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This article is an exercise of the police powers of the state to promote the public health, safety, and welfare of the people of Indiana to safeguard against the incompetent, dishonest, or unprincipled ~~practitioner~~ **practice** of veterinary medicine. The practice of veterinary medicine is a privilege conferred by the general assembly to individuals qualified under this ~~chapter.~~ **article.**

SECTION 2. IC 25-38.1-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. This article does not apply to the manufacture, distribution, storage, transportation, sale, or use of a veterinary drug, including antibiotics and immunization products, if federal or state law does not restrict the drug to:**

(1) use by; or

(2) use on the order of;

a licensed veterinarian.

SECTION 3. IC 25-38.1-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. "Accredited veterinary technology program" means a program in veterinary technology that:**

(1) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(2) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved

by the United States Department of Education or its successor.

SECTION 4. IC 25-38.1-1-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.3. "Client" means the owner, the owner's agent, or other person who is responsible for an animal that is examined or treated by a veterinarian.**

SECTION 5. IC 25-38.1-1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. "Consultation" means a licensed veterinarian receiving advice by any means from:**

(1) a veterinarian licensed in Indiana or another jurisdiction; or

(2) a person whose expertise, in the opinion of the licensed veterinarian, would benefit an animal.

SECTION 6. IC 25-38.1-1-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.6. "Contract operator" means an individual who contracts with the owner of an animal to provide complete care for the animal twenty-four (24) hours a day, seven (7) days a week.**

SECTION 7. IC 25-38.1-1-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.7. "Direct supervision" means a supervisor is readily available on the premises where the animal is being treated.**

SECTION 8. IC 25-38.1-1-9, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Extern" means a:

(1) senior veterinary student enrolled in an accredited college of veterinary medicine; or

(2) second year student enrolled in an ~~approved program in~~ **accredited** veterinary technology **program;**

employed by or working with a licensed veterinarian and under the licensed veterinarian's direct supervision.

SECTION 9. IC 25-38.1-1-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.3. "Impaired veterinary health**

care provider" means a veterinarian or registered veterinary technician who has been affected by the use or abuse of alcohol or other drugs.

SECTION 10. IC 25-38.1-1-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.5. "Indirect supervision" means a supervising veterinarian is not on the premises but:**

(1) is present within the veterinarian's usual practice area;

(2) has given written protocols or oral instructions for the treatment of an animal for which a veterinarian-client-patient relationship exists; and

(3) is readily available by telephone or other means of immediate communication.

SECTION 11. IC 25-38.1-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.5. "Patient" means an animal that is examined or treated by a veterinarian.**

SECTION 12. IC 25-38.1-1-12, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. "Practice of veterinary medicine" means:

(1) representing oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry ~~in~~ **or** any of ~~its~~ **their** branches **or specialties;**

(2) using words, letters, or titles in a connection or under circumstances that may induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry;

(3) accepting ~~remuneration~~ **compensation** for doing any of the things described in subdivisions (4) through ~~(7);~~ **(8);**

(4) ~~diagnosing a specific~~ **providing the diagnosis, treatment, correction, or prevention of any** disease, ~~or~~ **defect,** injury, **deformity, pain,** or ~~identifying and describing a disease process of animals, or performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon~~ **condition of** animals;

(5) prescribing, **dispensing, or ordering the administration of** a drug, **a** medicine, **a biologic, a medical** appliance, ~~or~~ **an** application, or treatment of whatever nature for the prevention, cure, or relief of ~~bodily~~ **any disease, ailment, defect,** injury, ~~or~~

~~disease~~ **deformity, pain, or other condition** of animals;

(6) performing a:

(A) surgical or dental operation; **or**

(B) complimentary or alternative therapy;

upon an animal; ~~or~~

(7) **certifying the health, fitness, or soundness of an animal; or**

(8) performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon animals.

However, the term does not include administering a drug, medicine, appliance, application, or treatment ~~of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, application, or treatment~~ **that** is administered at the direction and under the direct supervision of a veterinarian licensed under this article.

SECTION 13. IC 25-38.1-1-13, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. "Registered veterinary technician" means a veterinary technician registered under this article to work under the direct **or indirect** supervision of a licensed veterinarian.

SECTION 14. IC 25-38.1-1-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14.5. "Veterinarian-client-patient relationship" means a relationship between a veterinarian and client that meets the following conditions:**

(1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions.

(2) The veterinarian has sufficient knowledge of the animal to initiate a diagnosis of the medical condition of the animal. The veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by either of the following:

(A) An examination of the animal.

(B) By recently seeing and being personally acquainted with the keeping and care of representative animals and associated husbandry practices by making medically appropriate and timely visits to the premises where the

animal is kept.

(3) The veterinarian is readily available or has arranged for emergency coverage for follow-up evaluation if there is an adverse reaction or failure of the treatment regimen.

(4) When appropriate, the veterinarian has arranged for continuing care with another licensed veterinarian who has access to the animal's medical record.

SECTION 15. IC 25-38.1-1-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14.7. "Veterinary assistant" means an individual who is not a licensed veterinarian or registered veterinary technician who performs tasks related to animal health care under the direct supervision of a licensed veterinarian or registered veterinary technician.**

SECTION 16. IC 25-38.1-2-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The Indiana board of veterinary medical examiners is established.

(b) The board consists of ~~six (6)~~ **seven (7)** members appointed by the governor from the districts described in section 3 of this chapter. Not more than one (1) veterinarian member may be domiciled in the same district.

(c) One (1) of the board members must be a registered veterinary technician.

~~(c)~~ **(d)** One (1) of the board members must be appointed to represent the general public.

~~(d)~~ **(e)** Not more than four (4) board members may be affiliated with the same political party.

~~(e)~~ **(f)** If there is a vacancy on the board, the governor shall appoint a successor to complete the unexpired term.

SECTION 17. IC 25-38.1-2-2, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The term of each member of the board is four (4) years beginning on September 1 of the appropriate year. Each member shall serve until the member's successor is appointed and qualified. Members of the board may be appointed for more than one (1) term, but an individual may not be a member of the board for more than eight (8) years out of any twelve (12) year period.

(b) The terms of the board members expire as follows:

(1) The term of the member from the first district expires on August 31, 2008, and every four (4) years thereafter.

(2) The term of the member from the second district expires on August 31, 2009, and every four (4) years thereafter.

(3) The term of the member from the third district expires on August 31, 2010, and every four (4) years thereafter.

(4) The term of the member from the fourth district expires on August 31, 2011, and every four (4) years thereafter.

(5) The term of the member from the fifth district expires on August 31, 2008, and every four (4) years thereafter.

(6) The term of the member appointed to represent the general public expires on August 31, 2009, and every four (4) years thereafter.

(7) The term of the registered technician member expires on August 31, 2012, and every four (4) years thereafter.

SECTION 18. IC 25-38.1-2-4, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Each member of the board must have been a resident of Indiana for at least five (5) years continuously before appointment and must have been a:

(1) licensed veterinarian in the private practice of veterinary medicine; **or**

(2) registered veterinary technician;

in ~~the state~~ **Indiana** for at least three (3) of those years.

(b) Each member of the board must be a graduate of a school or college of veterinary medicine **or an accredited veterinary technology program** generally recognized as approved, according to the prevailing standard for recognition as a school or college of veterinary medicine at the time of the member's graduation.

(c) Each member of the board must be a person of good reputation within the profession and within the community in which the member resides.

(d) A member of the board may not be an officer, a director, or an employee in any manufacturing, wholesaling, or retail enterprise dealing in drugs, supplies, instruments, or equipment used or useful in the practice of veterinary medicine, which might constitute or tend to create a conflict of interest between the member's business association

and membership on the board.

(e) A member of the board may not be a member of the faculty, board of trustees, or advisory board of a school of veterinary medicine or school of veterinary technology.

(f) Notwithstanding the other provisions of this section, one (1) member of the board, appointed to represent the general public, must be an Indiana resident who has never been associated with veterinary medicine in any way other than as a consumer.

SECTION 19. IC 25-38.1-2-7, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) At its annual meeting, the board shall elect a chairperson and vice chairperson and other necessary officers determined by the board. Officers shall serve for a term of one (1) year or until a successor is elected. There is no limitation on the number of terms an officer may serve.

(b) The state veterinarian shall be the technical adviser of the board.

(c) The duties of the agency include:

(1) corresponding for the board;

(2) keeping accounts and records of all receipts and disbursements by the board;

(3) keeping records of all applications for license or registration;

(4) keeping a register of all persons currently licensed or registered by the board; ~~and~~

(5) keeping permanent records of all board proceedings; **and**

(6) administering the veterinary investigative fund established by section 25 of this chapter.

SECTION 20. IC 25-38.1-2-9, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The board is vested with the sole authority to determine the qualifications of applicants for:

(1) a license to practice veterinary medicine; and

(2) registration to practice as a **registered** veterinary technician; in Indiana.

SECTION 21. IC 25-38.1-2-10, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The board is vested with the sole authority to issue, renew, deny, suspend, or revoke:

(1) licenses and special permits to practice veterinary medicine;

and

(2) registrations or special permits to practice as a **registered** veterinary technician;

in Indiana.

SECTION 22. IC 25-38.1-2-12, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The board is vested with the sole authority to determine the following:

(1) The examinations applicants are required to take.

(2) The subjects to be covered **on the examinations.**

(3) The places where and the dates on which examinations will be given.

(4) The deadlines for applying to take the examinations.

SECTION 23. IC 25-38.1-2-13, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The board may establish by rule minimum standards of continuing education for the renewal of licenses to practice veterinary medicine and for the renewal of registrations as a **registered** veterinary technician. The rules adopted under this section must comply with IC 25-1-4-3.

SECTION 24. IC 25-38.1-2-14, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The board shall adopt by rule standards of professional conduct for the competent practice of veterinary medicine and the competent practice of a **registered** veterinary technician.

SECTION 25. IC 25-38.1-2-19, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The board shall establish by rule under IC 25-1-8 fees sufficient to implement this article, including fees for examining and licensing veterinarians and for examining and registering veterinary technicians.

(b) In addition to the fee to issue or renew a license, registration, or permit, the board may establish a fee of not more than ten dollars ($10) per year for a person who holds a license or special permit as a veterinarian or a registration or special permit as a veterinary technician to provide funds for administering and enforcing the provisions of this article, including investigating and taking action against persons who violate this article. All funds

collected under this subsection shall be deposited in the veterinary investigative fund established by section 25 of this chapter.

~~(b)~~ **(c)** The fees established under this section shall be charged and collected by the agency.

SECTION 26. IC 25-38.1-2-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) The veterinary investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the agency.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from the fee imposed under section 19(b) of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the total amount in the fund exceeds seven hundred fifty thousand dollars ($750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars ($750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated to the agency for its use in administering and enforcing this article, conducting investigations, and taking enforcement action against persons violating this article.

(f) The attorney general and the agency may enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement action against violators of this article.

(g) The attorney general and the agency shall present the memorandum of understanding annually to the board for review.

SECTION 27. IC 25-38.1-3-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A person may not practice veterinary medicine in Indiana unless the person:

(1) is licensed as a veterinarian in Indiana; or

(2) holds a special permit issued by the board.

~~(b) A person may not act as a veterinary technician in Indiana unless the person:~~

~~(1) is registered as a veterinary technician in Indiana; or~~

~~(2) holds a special permit issued by the board.~~

~~(c)~~ **(b)** The following persons are exempt from the licensing ~~registration,~~ or special permit requirements of this chapter:

(1) A veterinarian on the faculty of the School of Veterinary Medicine at Purdue University performing regular duties, or a veterinarian employed by the animal disease diagnostic laboratory established by IC 21-46-3-1 performing regular duties.

(2) A **veterinary medical officer serving in the United States armed forces or** veterinarian employed by a federal, state, or local government agency performing **veterinary medical services that are within the scope of** official duties **and are performed during the period of the person's service.**

(3) An individual who is a regular student in an accredited college of veterinary medicine ~~or veterinary technology~~ performing duties or actions assigned by ~~instructors~~ **the faculty of the School of Veterinary Medicine at Purdue University** or working under the direct supervision of a licensed veterinarian.

(4) An extern.

(5) A veterinarian **who is** licensed and **is a** resident in another state or ~~nation who occasionally~~ **country and** consults with a ~~licensed~~ veterinarian ~~in Indiana.~~ **licensed under this article.**

(6) ~~The~~ **An** owner **or a contract operator** of an animal or a regular employee of the owner **or a contract operator** caring for and treating an animal, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

(7) A guest lecturing or giving instructions or demonstrations at the School of Veterinary Medicine at Purdue University, or elsewhere, in connection with a continuing education program.

(8) An individual while engaged in bona fide scientific research that:

(A) reasonably requires experimentation involving animals; **and**

(B) is conducted in a facility or with a company that complies with federal regulations regarding animal

welfare.

(9) A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate and who is under the direct supervision of ~~a licensed veterinarian.~~ **the faculty of the School of Veterinary Medicine at Purdue University.**

(10) A veterinarian who is enrolled in a postgraduate instructional program in an accredited college of veterinary medicine performing duties or actions assigned by ~~instructors or working under the direct supervision of a licensed veterinarian.~~ **the faculty of the School of Veterinary Medicine at Purdue University.**

(11) A member in good standing of another licensed or regulated profession within Indiana who:

(A) provides assistance requested by a veterinarian licensed under this article;

(B) acts with the consent of the client;

(C) acts within a veterinarian-client-patient relationship; and

(D) acts under the direct or indirect supervision of the licensed veterinarian.

SECTION 28. IC 25-38.1-3-2, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. To become a licensed veterinarian, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice **ethically and** competently;

(2) not have committed an act that would have been a violation of IC 25-1-9-4 or IC 25-1-9-6;

~~(2)~~ **(3)** pay the fees required under this article;

~~(3)~~ **(4)** have successfully completed a program in veterinary medicine from an accredited college of veterinary medicine; and

~~(4)~~ **(5)** have successfully completed the examinations ~~provided under~~ **described in** section 4 of this chapter or qualify for a license without examination under section 5 of this chapter.

However, a person who was licensed as a veterinarian in Indiana on August 31, 1979, is not required to meet the requirements of subdivision ~~(3)~~ **(4)** or ~~(4).~~ **(5).**

SECTION 29. IC 25-38.1-3-4, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 4. (a) The board shall hold at least one (1) examination for licensing veterinarians and one (1) examination for registering veterinary technicians each year. However, the board may hold additional examinations. The agency shall give notice of the date, time, and place for each examination at least ninety (90) days before the date set for the examination. A person desiring to take an examination must make application not later than the time the board ~~may prescribe~~ **prescribes** under IC 25-38.1-2-12.

(b) The board must approve the preparation, administration, and grading of examinations **that comply with the following requirements:**

(1) Examinations **for licensure to practice as a veterinarian** must be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to practice veterinary medicine. ~~or to act as a veterinary technician as the case may be.~~ The board may adopt and use examinations approved by the National Board of Veterinary Medical Examiners **for licensure to practice veterinary medicine.**

(2) Examinations for registration as a registered veterinary technician must be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in schools for veterinary technicians. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to act as a registered veterinary technician. The board may adopt and use examinations approved by the American Association of Veterinary State Boards for registration as a veterinary technician.

(c) To qualify for a license as a veterinarian or to be registered as a veterinary technician, the applicant must attain a passing score in the examinations.

(d) After the examinations, the agency shall notify each examinee of the result of the examinee's examinations. The board shall issue a license or registration certificate, as appropriate, to each individual who successfully completes the examinations and is otherwise qualified.

The agency shall keep a permanent record of the issuance of each license or registration certificate.

(e) An individual who fails to pass the required examinations may apply to take a subsequent examination. Payment of the examination fee may not be waived.

(f) If an applicant fails to pass the required examination within three (3) attempts in Indiana or any other state, the applicant may not retake the required examination. The applicant may take subsequent examinations upon approval by the board and completion of remedial education as required by the board.

SECTION 30. IC 25-38.1-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) An individual may not act as a registered veterinary technician unless the person is registered as a veterinary technician in Indiana or has been issued a special permit by the board.**

(b) An individual is not required to meet the registration requirements for a registered veterinary technician under this article while the individual is:

(1) a full-time student in an accredited veterinary technology program performing duties or actions assigned by faculty or staff of the accredited program; or

(2) working under the direct supervision of a licensed veterinarian to perform tasks that are an educational requirement of the accredited program.

SECTION 31. IC 25-38.1-3-6, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. To become a registered veterinary technician, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) pay the required fees;

(3) be at least eighteen (18) years of age;

(4) have successfully completed four (4) years of high school education or an acceptable equivalent;

(5) have either successfully completed an ~~approved program of~~ **accredited** veterinary technology **program** or have been a registered veterinary technician on August 31, 1981; and

(6) show that the person has the necessary knowledge and skills to be a registered veterinary technician, demonstrated by successfully passing the required examinations.

SECTION 32. IC 25-38.1-3-7, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The board may refuse to issue a registration or may issue a probationary registration to an applicant for registration as a **registered** veterinary technician under this chapter if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction; and

(2) the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to competently practice as a veterinary technician in Indiana.

(b) Whenever issuing a probationary registration under this section, the board may impose any or a combination of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(c) The board shall remove any limitations placed on a probationary registration issued under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

(d) This section does not apply to an individual who currently holds a registration certificate under this chapter.

SECTION 33. IC 25-38.1-3-8, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The board may issue a registration without an examination to a qualified applicant who:

(1) furnishes satisfactory proof that the applicant has successfully completed an ~~approved program of~~ **accredited** veterinary technology **program;**

(2) for the five (5) years immediately preceding filing an application has been acting as a registered veterinary technician in a state, territory, or district of the United States that has registration requirements substantially equivalent to the

requirements of this chapter; and

(3) otherwise meets the requirements of this chapter.

SECTION 34. IC 25-38.1-3-11, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A license issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All licenses expire on ~~October 15~~ **a date set by the agency** in each odd-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a **notice** sixty (60) ~~day notice of~~ **days before the** expiration to each licensed veterinarian. ~~and provide the veterinarian with a form for renewal.~~ The agency shall issue a license renewal to each individual licensed under this chapter if the proper fee has been received and all other requirements for renewal of the license have been satisfied. Failure to renew a license on or before the expiration date automatically renders the license invalid without any action by the board.

SECTION 35. IC 25-38.1-3-12, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A registration certificate issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All registration certificates expire on ~~January 1~~ **a date set by the agency** of each even-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a **notice** sixty (60) ~~day notice of~~ **days before the** expiration to each registered veterinary technician. ~~and provide the veterinary technician with a form for renewal.~~ The agency shall issue a registration certificate renewal to each individual registered under this chapter if the proper fee has been received and all other requirements for renewal of the registration certificate have been satisfied. Failure to renew a registration certificate on or before the expiration date automatically renders the license invalid without any action by the board.

SECTION 36. IC 25-38.1-3-13, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) An individual who:

(1) practices veterinary medicine after the individual's license has

expired, been revoked, or been placed on inactive status; or

(2) acts as a registered veterinary technician after the individual's registration has expired, been revoked, or been placed on inactive status;

violates this article.

(b) A veterinarian may renew an expired license or a **registered** veterinary technician may renew an expired registration certificate not later than five (5) years after the date of expiration by making written application for renewal and paying the required fee. **However, the board may require continuing education as a condition of renewal of an expired license.**

(c) A veterinarian may not renew an expired license, and a registered veterinary technician may not renew an expired registration certificate, after five (5) years have elapsed after the date of the expiration of a license or a registration certificate ~~the license or registration certificate may not be renewed,~~ but the person may make application for a new license or registration certificate and take the appropriate examinations.

~~(c)~~ **(d)** To have a license or registration placed on inactive status, a licensed veterinarian or registered veterinarian technician must notify the board in writing of the veterinarian's or technician's desire to have the license or registration placed on inactive status. The board shall waive the continuing education requirements, if any, and payment of the renewal fee during the period the license or registration of a veterinarian or technician is on inactive status. A license or registration may be placed on inactive status during the period:

(1) the veterinarian or technician is on active duty with any branch of the armed services of the United States;

(2) the veterinarian or technician is in the Peace Corps;

(3) the veterinarian or technician is in an alternative service during a time of national emergency;

(4) the veterinarian or technician is suffering from a severe medical condition that prevents the veterinarian or technician from meeting the requirements of the board; or

(5) after the veterinarian or technician retires.

A veterinarian or technician who is retired and on inactive status may not maintain an office or practice veterinary medicine. The board may adopt rules under IC 4-22-2 that establish prerequisites or conditions

for the reactivation of an inactive license or registration.

SECTION 37. IC 25-38.1-4-1, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) During working hours or when actively performing the **registered veterinary** technician's duties, a registered veterinary technician must wear a unique mark of identification on the technician's clothing that is approved by the board and that identifies the technician as a registered veterinary technician.

(b) **An individual who is not** a registered veterinary technician may **not** use the title "registered veterinary technician", **"veterinary technician",** or the abbreviation "R.V.T.".

(c) An individual who is not a registered veterinary technician may not advertise or offer the individual's services in a manner calculated to lead others to believe that the individual is a ~~trained veterinary technician or a~~ registered veterinary technician.

SECTION 38. IC 25-38.1-4-2, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. A:

(1) registered veterinary technician; **or**

(2) veterinary assistant;

may not diagnose, make a prognosis, prescribe medical or surgical treatment, or perform as a surgeon. However, the **registered veterinary** technician may perform routine procedures defined by board rules while under the direct **or indirect** supervision of a licensed veterinarian responsible for the technician's performance.

SECTION 39. IC 25-38.1-4-3, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a)** A ~~licensed~~ **supervising** veterinarian ~~who is required to directly supervise an employee must be:~~

~~(1) present within the veterinarian's usual practice area;~~

~~(2) able to communicate directly with the employee at all times that the employee is performing animal health care; and~~

~~(3) prepared to personally assume treatment, if necessary for the welfare of the animal.~~

~~Direct communication may be verbal, by telephone, or by two-way radio. Instructions must be recorded by the employee and repeated by the employee to the employee's supervising licensed veterinarian.~~ **shall determine and is responsible for determining the appropriate level**

of supervision, except where prohibited by law, if the tasks being delegated are commensurate with employee's training, experience, and skills.

(b) Registered veterinary technicians may, under direct or indirect supervision, perform routine food animal management practices if a valid veterinarian-client-patient relationship exists.

(c) A registered veterinary technician or veterinary assistant may not receive a fee or compensation for veterinary services other than salary or compensation paid by the establishment where the individual is employed.

(d) In the performance of delegated veterinary tasks, a registered veterinary technician and veterinary assistant shall do the following:

(1) Accept only those delegated veterinary tasks for which there are mutually approved protocols, written standing orders, or verbal directions.

(2) Accept only those delegated veterinary tasks that:

(A) the registered veterinary technician or veterinary assistant is competent to perform based on education, training, or experience; and

(B) are not prohibited by law.

(3) Consult with the supervising veterinarian in cases where the registered veterinary technician or veterinary assistant knows or should have known that a delegated veterinary task may harm an animal.

SECTION 40. IC 25-38.1-4-5, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a)** A licensed veterinarian may write prescriptions. Pharmacists shall give the prescriptions written by a licensed veterinarian the same recognition given the prescriptions of persons holding an unlimited license to practice medicine or osteopathic medicine.

(b) A valid veterinarian-client-patient relationship must exist before a licensed veterinarian dispenses or prescribes a prescription product.

(c) Veterinary prescription products, including drugs and immunizing products restricted by state and federal law for use by licensed veterinarians, may not be diverted or transferred to an individual for use on an animal if there is not a current

veterinarian-client-patient relationship with the original prescribing veterinarian.

(d) If a veterinarian prescribes a drug for the client's animal, upon request, the veterinarian shall provide the prescription to the client, unless prohibited by state or federal law or to prevent inappropriate use.

SECTION 41. IC 25-38.1-4-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) Each person who provides veterinary medical services shall maintain medical records, as defined by rules adopted by the board.**

(b) Veterinary medical records include the following:

(1) Written records and notes, radiographs, sonographic images, video recordings, photographs or other images, and laboratory reports.

(2) Other information received as the result of consultation.

(3) Identification of any designated agent of the owner for the purpose of authorizing veterinary medical or animal health care decisions.

(4) Any authorizations, releases, waivers, or other related documents.

(c) The client is entitled to a copy or summary of the veterinary medical records. A veterinarian may charge a reasonable fee for copying or summarizing the requested veterinary medical record. The veterinarian may require that the request be in writing.

(d) Except as provided in subsection (e) or upon written authorization of the client, an animal's veterinary medical record and medical condition is confidential and may not be:

(1) furnished to; or

(2) discussed with;

any person other than the client or other veterinarians involved in the care or treatment of the animal.

(e) An animal's veterinary medical records and medical condition may be furnished without written client authorization under the following circumstances:

(1) Access to the records is specifically required by a state or federal statute.

(2) An order by a court with jurisdiction in a civil or criminal action upon the court's issuance of a subpoena and notice to

the client or the client's legal representative.

(3) For statistical and scientific research, if the information is abstracted in a way as to protect the identity of the animal and the client.

(4) As part of an inspection or investigation conducted by the board or an agent of the board.

(5) As part of a request from a regulatory or health authority, physician, or veterinarian:

(A) to verify a rabies vaccination of an animal; or

(B) to investigate a threat to human or animal health, or for the protection of animal or public health and welfare.

(6) As a part of an animal cruelty report and associated applicable records that are part of an abuse investigation by law enforcement or a governmental agency.

(7) To a law enforcement agency as part of a criminal investigation.

(8) To the School of Veterinary Medicine at Purdue University, the animal disease diagnostic laboratory, or a state agency or commission. However, an animal's veterinary medical records remain confidential unless the information is disclosed in a manner allowed under this section.

(9) Veterinary medical records that are released by the board of animal health when in the judgment of the state veterinarian the disclosure is necessary or helpful in advancing animal health or protecting public health.

(f) An animal's veterinary medical records must be kept and maintained by the veterinarian for at least three (3) years after the veterinarian's last encounter with the animal.

SECTION 42. IC 25-38.1-4-6, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. Notwithstanding this chapter, in an emergency, in the absence of the licensed veterinarian employer, an employee **of a licensed veterinarian** may perform the duties it is lawful for the employee to perform under the direct supervision of ~~a~~ **the** licensed veterinarian according to the rules of the board and the written authority of the licensed veterinary employer.

SECTION 43. IC 25-38.1-4-8, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 8. (a) An animal placed in the custody of a veterinarian is considered to be abandoned five (5) days after the veterinarian has given written notice to the individual who delivered the animal to the veterinarian that the animal should be reclaimed by the individual. Written notice must be delivered **by certified mail** to the place given by the individual as the individual's mailing address at the time the individual delivered the animal to the veterinarian.

(b) Abandonment of an animal under this section constitutes the relinquishment of all rights and claims by the owner of the animal. ~~The~~ **An** abandoned animal may be sold or otherwise disposed of as the veterinarian may see fit. The purchaser or recipient of ~~the~~ **an** abandoned animal shall receive full and clear title to the animal.

(c) The giving of notice as provided in this section relieves the veterinarian and all persons who receive an abandoned animal from the veterinarian of criminal or civil liability.

(d) The individual who delivered an animal abandoned under this section is liable for all reasonable and customary expenses incurred for diagnosis, treatment, hospitalization, surgery, board, euthanasia, and disposal of the abandoned animal.

SECTION 44. IC 25-38.1-4-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. A veterinarian or registered veterinary technician who reports in good faith and in the normal course of business a suspected incident of animal cruelty under IC 35-46-3-12 to a law enforcement officer is immune from liability in any civil or criminal action brought for reporting the incident.**

SECTION 45. IC 25-38.1-4-9, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. Upon written complaint sworn to by any individual, the board may, by the concurrence of four (4) members, after a hearing and based upon findings of fact, discipline a registered veterinary technician by revoking or suspending the technician's registration for a time certain, by placing the technician on probation, or by any other appropriate means for any of the following reasons:

(1) The use of fraud, misrepresentation, or deception in obtaining a registration.

(2) ~~Chronic~~ Intoxication or the unlawful use of a controlled substance.

(3) The use of advertising or solicitation that is false or misleading or is considered unprofessional under rules adopted by the board.

(4) Conviction of or a plea of guilty to the charge of a felony or misdemeanor involving moral turpitude.

(5) Incompetence, gross negligence, or malpractice in performing as a registered veterinary technician.

(6) Cruelty to animals.

(7) Representing the technician as a veterinarian.

(8) Disciplinary action taken against the technician's registration by the board or by the licensing agency of any other state or jurisdiction by reason of the technician's inability to practice safely as a registered veterinary technician, if the reason is valid in the opinion of the board.

SECTION 46. IC 25-38.1-4-10, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. A person who knowingly:

(1) practices veterinary medicine without a license or special permit to practice veterinary medicine issued by the board; or

(2) supplies false information on an application for a license as a veterinarian;

commits a ~~Class B~~ **Class A** misdemeanor.

SECTION 47. IC 25-38.1-4-11, AS ADDED BY SEA 190-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A person who knowingly:

(1) acts as a registered veterinary technician without being registered as a veterinary technician with the board or having a special permit issued by the board; or

(2) supplies false information on an application for registration as a veterinary technician;

commits a ~~Class B~~ **Class A** misdemeanor.

SECTION 48. IC 25-38.1-4-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. Except as provided in sections 10 and 11 of this chapter, a person who violates this chapter commits a Class A infraction.**

SECTION 49. IC 25-38.1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]:

Chapter 5. Impaired Veterinary Health Care Providers

Sec. 1. (a) The board shall assist in the rehabilitation of an impaired veterinary health care provider.

(b) The board may do the following:

(1) Enter into agreements, provide grants, and make other arrangements with statewide nonprofit professional associations, foundations, or other entities specifically devoted to the rehabilitation of impaired health care professionals to identify and assist impaired veterinary health care providers.

(2) Accept and designate grants and public and private financial assistance to fund programs under subdivision (1) to assist impaired veterinary health care providers.

Sec. 2. (a) Except as provided in section 3 of this chapter, all:

(1) information furnished to a nonprofit professional association, foundation, or other entity specifically devoted to the rehabilitation of impaired health care professionals, including interviews, reports, statements, and memoranda; and

(2) findings, conclusions, or recommendations that result from a proceeding of the professional association, foundation, or other entity specifically devoted to the rehabilitation of impaired health care professionals;

are privileged and confidential.

(b) The records of a proceeding under subsection (a)(2) may be used only in the exercise of proper functions of the board, and may not become public records or subject to a subpoena or discovery proceeding.

Sec. 3. Information received by the board from the board designated rehabilitation program for noncompliance by the impaired veterinary health care provider may be used by the board in a disciplinary or criminal proceeding instituted against the impaired veterinary health care provider.

Sec. 4. The board designated rehabilitation program shall:

(1) immediately report to the board the name and results of any contact or investigation concerning an impaired veterinary health care provider whom the program believes constitutes a certain, immediate, and impending danger to either the public or the impaired veterinary health care

provider; and

(2) in a timely fashion report to the board an impaired veterinary health care provider:

(A) who refuses to cooperate with the program;

(B) who refuses to submit to treatment; or

(C) whose impairment is not substantially or significantly alleviated through treatment, as determined by accepted medical standards.

Sec. 5. (a) The impaired veterinary health care provider fund is established to provide money for rehabilitation of impaired veterinary health care providers under this chapter. The agency shall administer the fund.

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of any grants or public and private financial assistance designated for the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund is appropriated to the board for the purpose stated in subsection (a).

SECTION 50. IC 34-30-2-62.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 62.2. IC 25-38.1-4-8.5 (Concerning veterinarians and registered veterinary technicians who report suspected incidents of animal cruelty).**

SECTION 51. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 25-38.1-1-6; IC 25-38.1-1-16; IC 25-38.1-4-4.

SECTION 52. [EFFECTIVE JULY 1, 2008] **(a) Before July 1, 2009, the Indiana board of veterinary medical examiners shall do the following:**

(1) Amend the definition of "fixed practice facility" under 888 IAC 1.1-4-1 to include standards that require that if radiological services are provided within a fixed practice facility, the facility must contain the following:

(A) An x-ray machine.

(B) The ability to develop radiographic images.

However, if radiological services are not provided within the

facility, appropriate arrangements must be made to provide the services outside the facility.

(2) Amend 888 IAC 1.1-5-1 to remove the definition of "veterinarian-client-patient relationship".

(b) This SECTION expires July 1, 2009.

P.L.59-2008

[S.336. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-41-41-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The task force consists of ~~fifteen (15)~~ **eighteen (18)** members as follows:

(1) The state health commissioner or the commissioner's designee.

(2) The secretary of family and social services or the secretary's designee.

(3) Two (2) representatives of a stroke support organization.

(4) Four (4) physicians with an unlimited license to practice medicine under IC 25-22.5 and with expertise in stroke, including at least:

(A) one (1) physician;

(B) one (1) neurologist;

(C) one (1) ~~neuroradiologist,~~ **physician with expertise in the area of cerebrovascular accidents;** and

(D) one (1) emergency care physician who is a member of the American College of Emergency Physicians.

(5) One (1) health care provider who provides rehabilitative services to persons who have had a stroke.

(6) One (1) nurse with a license to practice under IC 25-23 **and**

who has experience in the area of cerebrovascular accidents.

(7) One (1) representative nominated by the Indiana ~~Health and~~ Hospital Association.

(8) One (1) representative from an emergency medical services organization or provider.

(9) One (1) representative from the Indiana Minority Health Coalition.

(10) One (1) stroke survivor or stroke survivor caregiver.

(11) One (1) recreational therapist who provides services to persons who have had a stroke.

(12) One (1) representative from the Indiana Primary Health Care Association.

(13) One (1) representative from the health insurance industry.

(14) One (1) clinical pharmacist who practices in the community and not in a hospital.

(b) The governor shall appoint the members of the task force designated by subsection (a)(3) through ~~(a)(11).~~ **(a)(14).** The governor may remove an appointed member for cause.

SECTION 2. IC 16-41-41-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~Eight (8)~~ **Ten (10)** members of the task force constitute a quorum for transacting all business of the task force. The affirmative votes of a majority of the voting members appointed to the council are required for the task force to take action on any measure.

SECTION 3. IC 16-41-41-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The governor shall appoint one (1) council member to serve as chair and one (1) council member to serve as vice chair. The chair and vice chair **shall** serve a term of one (1) year.

SECTION 4. IC 16-41-41-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The task force shall do the following:

~~(1) Complete a statewide comprehensive stroke needs assessment.~~

~~(2) Develop and implement a comprehensive statewide public education program on stroke prevention, targeted to high risk populations and to geographic areas where there is a high incidence of stroke.~~

~~(3) Recommend and disseminate guidelines on the treatment of stroke patients, including emergency stroke care.~~
~~(4) Ensure that the public and health care providers are informed regarding the most effective strategies for stroke prevention.~~
~~(5) Advise the state department concerning grant opportunities for providers of emergency medical services and for hospitals to improve care to stroke patients.~~
~~(6) Study and issue recommendations on other topics related to stroke care and prevention as determined by the chairperson.~~
~~(7)~~ **(1)** Prepare a report each year on the operation of the task force and provide the report to the following:

(A) The governor.

(B) The commissioner of the state department.

(C) The legislative council. The report under this clause must be in an electronic format under IC 5-14-6.

(2) Develop a standardized stroke template checklist for emergency medical services protocols to be used statewide.
(3) Develop a thrombolytic checklist for emergency medical services personnel to use.
(4) Develop standardized dispatcher training modules.
(5) Develop a yearly training update and continuing education unit for first responders that includes the Cincinnati Stroke Scale.
(6) Develop an integrated curriculum for providers, including:

(A) emergency medical services personnel;

(B) hospitals;

(C) first responders;

(D) physicians; and

(E) emergency room staff.

(7) Develop a standard template of protocols that include thrombolytic treatment.
(8) Create a more refined and specific hospital survey stroke assessment tool to assess the capability of hospitals in treating patients who have had strokes.
(9) Research the feasibility of a state based primary stroke center certification program.
(10) Develop a stroke survivor mentor program targeting

survivors after rehabilitation is complete.

(11) Distribute the rehabilitation survey developed by the Great Lakes Stroke Network throughout Indiana to freestanding rehabilitation hospitals.

(12) Implement a statewide patient and community education initiative targeting at-risk populations in Indiana.

(13) Investigate the use of telemedicine in Indiana for the treatment of neurologic and radiologic stroke patients.

SECTION 5. IC 16-41-41-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The expenses of the task force shall be paid from:

(1) funds appropriated to the ~~state department.~~ **task force by the general assembly; and**

(2) grant money awarded to the task force.

SECTION 6. IC 16-41-41-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2008]: Sec. 11. This chapter expires ~~July 1, 2008.~~ **July 1, 2012.**

P.L.60-2008

[S.343. Approved March 13, 2008.]

AN ACT concerning criminal law and procedure.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "sentencing policy study committee" refers to the committee established by P.L.216-2007, SECTION 56.**

(b) The legislative council shall assign to the sentencing policy study committee for study the topic of the theft of copper. The legislative council shall instruct the sentencing policy study committee to specifically examine:

(1) the effectiveness of the amendments to IC 25-37.5-1 (theft

of valuable metals) adopted in 2007; and

(2) the need to educate valuable metal dealers, law enforcement officers, individuals involved in construction work, and any other individuals concerning the provisions of IC 25-37.5-1.

The sentencing policy study committee may examine any other issue appropriate related to the theft of copper.

(c) This SECTION expires November 1, 2008.

SECTION 2. **An emergency is declared for this act.**

P.L.61-2008

[H.1026. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning funerals and cemeteries and to make an appropriation.

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

SECTION 1. IC 23-14-48-3, AS AMENDED BY P.L.65-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A perpetual care fund shall be established under this chapter as follows:

(1) In the case of a cemetery for earth burials, by the application and payment to the perpetual care fund of an amount at least equal to:

(A) fifteen percent (15%) of the sale price; or

(B) eighty cents ($0.80) per square foot of area;

of each burial plot sold or transferred, whichever is greater.

(2) In the case of a community or public mausoleum, or community or public garden crypt, by the application and payment to the perpetual care fund of an amount at least equal to:

(A) eight percent (8%) of the sale price; or

(B) one hundred dollars ($100) per crypt sold or transferred;

whichever is greater.

(3) In the case of a community columbarium, by the application and payment to the perpetual care fund of an amount at least equal to twenty dollars ($20) per niche sold or transferred.

(b) From the sale price, any payment on the sale price, or in a nonmonetary transfer, the owner shall pay an amount in proportion to the requirements of subsection (a)(1) through (a)(3) to the care fund. The payment must be in cash and shall be deposited with the ~~custodian or~~ trustee of the fund:

(1) not more than thirty (30) days after the end of the month in which payments on the sale are received; or

(2) not more than thirty (30) days after the end of the month in which there was a transfer which did not involve a sale.

(c) The payments required by this section are required to be paid only on the original sale or transfer and not again for any subsequent resale or transfer of the same ground interment rights, crypt, or niche.

(d) The ~~custodian or~~ trustee of a fund established under this chapter must keep the fund segregated from any other fund or account belonging to the owner of the cemetery.

SECTION 2. IC 23-14-48-7, AS AMENDED BY P.L.65-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Not more than ninety (90) days after the end of the fiscal year of a cemetery to which this chapter applies, the custodian or trustee of the perpetual care fund of the cemetery shall prepare and file with the owner of the cemetery a detailed accounting and report of the perpetual care fund for the preceding fiscal year. The report:

(1) must include, among other things, a properly itemized listing of the securities in which the funds are invested; and

(2) shall be available for inspection and copying at all times by any owner of or holder of a burial right in the cemetery at the usual place at which the regular business of the cemetery is transacted.

(b) Not more than one hundred five (105) days after the end of the fiscal year of a cemetery to which this chapter applies, the ~~custodian or~~ trustee of the perpetual care fund of the cemetery shall file the report required under subsection (a) with the state board of funeral and cemetery service.

(c) The state board of funeral and cemetery service may audit or order an audit of the perpetual care fund of a cemetery if the state board of funeral and cemetery service determines that the ~~custodian or~~ trustee of the perpetual care fund is not complying with the requirements set forth in subsections (a) and (b). The cemetery that is the subject of the audit shall pay all costs associated with the audit.

(d) The owner of a cemetery shall maintain a report required by this section for the longer of:

(1) ten (10) years; or

(2) three (3) years after the date the owner sells or otherwise transfers the cemetery.

SECTION 3. IC 23-14-77 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 77. Vaults Used to Encase Human Remains

Sec. 1. A person who sells or otherwise furnishes to another person a vault that:

(1) will be used to encase the remains of a deceased individual; and

(2) is not airtight and watertight;

shall inform the other person in writing that the vault is not airtight and watertight before the person sells or otherwise furnishes the vault to the other person.

Sec. 2. A person who violates this chapter commits a Class B infraction.

SECTION 4. IC 30-2-9-7, AS AMENDED BY P.L.113-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. (a) Except as provided in subsection (b) **or (c),** a person who violates this chapter or makes any false and fraudulent report required under this chapter commits a Class B misdemeanor.

(b) A person who knowingly or intentionally uses **or disburses** funds in a funeral trust established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.

(c) Except as authorized in an agreement described in section 4 of this chapter permitting the early withdrawal of funds, a trustee that disburses funds in a funeral trust established under this

chapter without verifying:

(1) the death of the individual for whom services are to be provided under the contract; and

(2) that the beneficiary fully performed all funeral and burial services provided for in the contract;

through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

SECTION 5. IC 30-2-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The contract under which funds are accepted under this chapter must be in writing and contain, as a minimum, the following provisions:

(1) Details of the professional services, facilities, equipment, and a description of merchandise to be provided by the beneficiary. **If the merchandise or equipment includes a vault (as defined in IC 23-14-33-33) that:**

(A) will be used to encase the remains of a deceased individual; and

(B) is not airtight and watertight;

the details must include a written statement indicating that the vault is not airtight and watertight.

(2) A provision that the beneficiary may provide merchandise of equal or better quality if the merchandise contracted for is no longer available at the time the merchandise is to be provided.

(3) The place of the funeral and the place of the burial or other final disposition to be made of the decedent.

(4) An acknowledgment by the settlor that ~~he~~ **the settlor** understands the irrevocable nature of the trust.

(5) A provision for reasonable adjustment of the services, or cost of services, if the body is transported a distance greater than twenty-five (25) miles to the place of funeral or the place of burial or final disposition and transportation of a distance in excess of twenty-five (25) miles was not contemplated at the time of the execution of the contract.

(6) A provision for full payment of the contract amount by the settlor, a description of the manner in which the funds are to be deposited, and a statement that the interest will accrue to the trust account and a further statement that the principal and interest

earned shall inure to the beneficiary to cover all the costs incident to the beneficiary's performance of the contract, any excess to be refunded to the estate of the settlor or to the heirs at law.

(7) The settlor's name, address, and social security number.

(8) The date that the funeral trust is executed by the settlor.

(9) The trustee's name and address.

(10) The beneficiary's license number issued by the state board of funeral service.

(11) A provision that except under the circumstances described in subsection (12), only the settlor may change the beneficiary, that ~~he~~ **the settlor** may make the change at any time, and that the change is not effective until written notification is given to the original beneficiary.

(12) A provision that allows the state board of funeral service to change the beneficiary by naming a funeral home as new beneficiary if the original beneficiary becomes deceased, dissolved, terminated, or otherwise loses beneficiary status as a licensee of the state board, and the settlor or ~~his~~ **the settlor's** guardian or personal representative fails to select a qualified beneficiary.

SECTION 6. IC 30-2-10-9, AS AMENDED BY P.L.113-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) Except as provided in subsection (b), a person who knowingly violates this chapter commits a Class A misdemeanor.

(b) A person who knowingly or intentionally uses **or disburses** funds in a funeral trust established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.

(c) A trustee that disburses funds in a funeral trust established under this chapter without verifying:

(1) the death of the individual for whom services are to be provided under the contract; and

(2) that the beneficiary fully performed all funeral and burial services provided for in the contract;

through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

SECTION 7. IC 30-2-13-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.5. (a) This section applies to the following contracts entered into or established under this chapter after June 30, 1999:

(1) Contracts for prepaid services.

(2) Contracts for prepaid merchandise.

(3) Trusts or escrows established to hold consideration paid for services or merchandise subject to a contract entered into under this chapter.

(b) A contract between a purchaser and a seller must:

(1) specify that the consideration for the contract is:

(A) cash, payable either in **a** lump sum or **in** installments; or

(B) an insurance policy that is:

(i) newly issued in conjunction with and integral to the contract;

(ii) issued previously in a transaction separate and distinct from the contract; or

(iii) both.

If a contract is funded with an insurance policy, the ownership of the policy must be irrevocably assigned to a trustee, and the seller may not borrow against, pledge, withdraw, or impair the cash value of the policy;

(2) specify that only the purchaser, acting by written notice to the seller, may revoke the contract within thirty (30) days after the date the contract is signed by the purchaser and the seller and that the contract becomes irrevocable upon the expiration of the thirty (30) day period;

(3) specify that, if the contract is revoked, the seller shall refund and return to the purchaser, without interest, the cash or insurance policy used to fund the contract;

(4) specify that not more than thirty (30) days after the contract is signed by the purchaser and the seller, the whole of the cash or insurance policy serving as consideration for the contract must be deposited into a trust or escrow authorized by subsection (c) or (d). However, a seller may elect to serve as trustee of a previously existing life insurance contract;

(5) except as provided in subsection (f), unconditionally require that the seller shall deliver all services or merchandise, or both,

specified in the contract and receive as consideration for the delivery of services or merchandise, or both, only the cash or insurance policy held in trust or escrow without regard to the solvency of the insurer or the adequacy or loss in value of any cash deposit or insurance policy used to fund a contract;

(6) except as provided in subsection (f), prohibit a seller from imposing additional charges to recover any shortage or difference between the retail prices for services or merchandise, or both, in effect on the date of delivery of the services or merchandise, or both, and the value of the trust or escrow applicable to the contract on the date of delivery;

(7) require that a seller accepting the transfer of a contract permitted under section 13 of this chapter shall honor the requirements and obligations of the contract;

(8) permit the seller to assess a finance charge on a contract sold on an installment basis and require that the seller disclose to the purchaser the applicable requirements of federal and Indiana law;

(9) provide that the contract must comply with the following requirements:

(A) The contract must be made in a form that is:

(i) written in clear and understandable language; and

(ii) printed in a size and style of type that is easy to read.

(B) The contract must describe the services, merchandise, or cash advance items being purchased. **If the merchandise or cash advance items include a vault (as defined in IC 23-14-33-33) that:**

(i) will be used to encase the remains of a deceased individual; and

(ii) is not airtight and watertight;

the contract must include a written statement indicating that the vault is not airtight and watertight.

(C) The contract must identify the following by name, address, and telephone number:

(i) The seller.

(ii) The purchaser.

(iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.

(D) The contract must contain the seller's certificate of

authority number and the date of the contract.

(E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.

(F) The contract must disclose the precise manner in which the contract is to be funded by:

(i) identifying the consideration for the contract;

(ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and

(iii) including the identity and location of the trustee or escrow agent, **acting as fiduciary,** who is to hold the trust or escrow.

(G) The contract must disclose that the seller reserves the right to assess an extra charge for:

(i) transportation costs;

(ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and

(iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.

(H) The contract must disclose the following:

(i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).

(ii) That a commission or fee may be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).

(10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;

(11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1) of the following alternatives:

(A) Delivery is unconditionally guaranteed at the option of the seller.

(B) Delivery is conditionally guaranteed for a seller and will be equal in value to the total value of the trust or escrow account maintained for the purchaser multiplied by the percentage of the total original contract price represented by cash advance items;

(12) specify that a release from trust or escrow shall occur only upon the seller's delivery of services or merchandise, or both;

(13) permit, at the option of the seller, the incorporation of the trust or escrow language contained in subsection (c) or (d) directly into the contract;

(14) prohibit the seller from charging any service, transaction, or other type of fee or charge unless the fee is:

(A) authorized under subsections (c)(1) and (d)(6) and section 27 of this chapter; or

(B) included within the definitions contained in section 8 or 11.5 of this chapter.

(c) A trust account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require either of the following:

(A) The seller deposit the insurance policy used to fund the contract into the trust account. However, for contracts funded after June 30, 1995, with a previously issued insurance policy, the seller may serve instead of a trustee if the seller is qualified to do so under section 11(c) of this chapter.

(B) The seller deposit the cash used to fund the contract into the trust account. However, as consideration for the sale of the contract and any expense incurred by the seller in conjunction with the sale of the contract, the contract must permit the seller to notify, within a ten (10) day period following the date the contract becomes irrevocable, the trustee of its election to receive only up to ten percent (10%) of the seller's original contract price for services or merchandise, or both.

(2) Designate the seller as the beneficiary of the trust.

(3) Designate a trustee qualified under this chapter and authorize the trustee to assess the charges authorized under section 18 of this chapter.

(4) Require that a separate account be maintained in the name of each purchaser.

(5) Require that any interest, dividend, or accumulation in the account be reinvested and added to the principal.

(6) Permit the assets of the several, separate accounts to be commingled for investment purposes.

(7) Require that on receipt of the seller's proof of delivery of services or merchandise the trustee shall remit to the seller the full amount in trust applicable to the purchaser's contract and all of the accumulated interest.

(8) Permit the seller to retain the remaining amount if the amount in the trust account is greater than the seller's total current retail price of all services and merchandise subject to the contract at the time of delivery of all services or merchandise subject to the contract. However, in the case of a contract funded under subsection (b)(1)(B)(ii), the seller may not retain the remaining amount but must pay the remaining amount to the entity or individual designated by the insured as the beneficiary of the death benefit proceeds not later than sixty (60) days after the receipt and deposit of the proceeds by the seller. The seller may not qualify as a beneficiary of the remaining amount or the insurance death benefit. In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive the remainder or to the purchaser's estate.

(d) An escrow account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require that the seller deposit all cash or the insurance policy used to fund the contract into the escrow account.

(2) Designate the seller as the recipient of the escrow funds.

(3) Designate an escrow agent, **acting as fiduciary,** qualified under this chapter to act as escrow agent **acting as fiduciary** and authorize the escrow agent **acting as fiduciary** to assess the charges authorized under section 18 of this chapter.

(4) Require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or insurance policies used to fund contracts sold by the seller.

(5) Permit the investment of and commingling of cash for investment purposes.

(6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after the day following the date the contract becomes irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise or both.

(7) Require that on delivery of services or merchandise, the escrow agent shall remit to the seller an amount equal to:

(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus

(B) the amount, if any, received by the seller under subdivision (6).

(8) Permit the seller to receive monthly payments of the interest earned and the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following circumstances:

(1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.

(2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.

(3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.

(4) A transportation expense incurred by the seller while transporting human remains a distance greater than twenty-five (25) miles from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.

(5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives adequate consideration to compensate the seller for the unguaranteed part of the contract.

(g) The entire value of an escrow or trust established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(h) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

(i) A seller may not accept or deposit into a trust or escrow account cash, an insurance policy, or any other property as consideration for services or merchandise to be provided in the future except in conjunction with a contract authorized by this chapter.

SECTION 8. IC 30-2-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Notwithstanding section 10 of this chapter, as used in this section, "seller" means an individual, a person doing business as a sole proprietor, a firm, a corporation, an association, a limited liability company, or a partnership:

(1) contracting to provide prepaid or at-need services or merchandise, or both, to a named individual; and

(2) holding a certificate of authority under this chapter.

(b) A purchaser has the option to designate one (1) or more successor sellers to provide:

(1) prepaid services or merchandise; or

(2) at-need services or merchandise.

A purchaser who exercises the purchaser's option to designate a successor seller shall give written notice of the designation to the currently designated seller, successor seller, and trustee or escrow agent. Only a purchaser may exercise the option to designate a new seller. However, the designation is ineffective unless the newly designated seller consents to the designation.

(c) If a purchaser designates a successor seller, and the successor seller consents to the designation, not less than thirty (30) days after receiving notice under subsection (b), the seller who was previously designated shall:

(1) relinquish and transfer all rights under the contract;

(2) transfer to the successor the contract; and

(3) release from trust or escrow for subsequent deposit to the successor seller's trust or escrow all property being held as consideration for the contract, together with an itemized statement disclosing all services or merchandise delivered as of the date of transfer.

However, a seller who was previously designated to provide the services or merchandise shall comply with section 30 of this chapter. The seller and the successor sellers shall cooperate to ensure that there is no forfeiture or loss of a right or benefit under the contract and that all contract terms are fulfilled. If similar prepaid or at-need services or merchandise are purchased from one (1) or more sellers, the contract that is first in time prevails and is valid.

(d) The trustee shall confirm the transfer to the seller, successor seller, and purchaser by written notice confirming the identity and value of the property transferred.

(e) It is a violation of this chapter for a seller to knowingly induce a purchaser to breach an existing contract that provides for prepaid or at-need services or merchandise.

(f) This section does not abrogate the requirements of IC 25-15-4 concerning contracting for or delivering at-need services and merchandise.

(g) It is a violation of this chapter for a seller to knowingly:

(1) induce a purchaser who has the right to designate a successor seller under subsection (b) to:

(A) make a designation of a successor seller;

(B) breach an existing contract for prepaid or at-need services or merchandise; or

(C) enter into an at-need or prepaid contract calling for the delivery of similar services or merchandise; or

(2) offer a monetary inducement or the exchange or substitution of free or discounted services or merchandise in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

(h) It is a violation of this chapter for a seller to provide free or discounted burial rights:

(1) as an inducement or as consideration for the transfer of a contract; or

(2) in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

SECTION 9. IC 30-2-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. (a) The seller shall maintain accurate records, books, and accounts for each contract sold under this chapter containing the following:

(1) Copies of all contracts.

(2) The dates of all contracts.

(3) The amounts paid and received under each contract.

(4) The complete name, address, and identification of all parties to each contract.

(b) The seller shall maintain at the seller's principal Indiana business address complete records of all transactions under this chapter that involve the seller. The records may be audited and examined by the board at any reasonable time.

(c) The seller shall maintain all records required by this section for ~~at least~~ **the longer of:**

(1) ten (10) years; or

(2) three (3) years after the date of full performance of a contract. The records are business records and customer lists within the meaning of IC 24-2-3.

(d) The requirements of this section apply to a seller, a successor seller, and a seller who was previously designated to provide services or merchandise to a purchaser.

SECTION 10. IC 30-2-13-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 38. (a) A seller who violates a provision of this chapter commits an uncured deceptive act (as defined in IC 24-5-0.5-2).

(b) A person doing business as a sole proprietor, a firm, a limited liability company, a corporation, an association, or a partnership, but not acting as a seller that:

(1) sells or advertises prepaid services or merchandise or services or merchandise (as defined in section 8 of this chapter) and fails to obtain the certificate of authority required by section 33 of this chapter; or

(2) sells or advertises prepaid services or merchandise or services or merchandise (as defined in section 8 of this chapter) after the entity's certificate of authority has:

(A) expired; or

(B) been rescinded, revoked, or suspended by the board;

commits a Class A misdemeanor. Each act committed in violation of this subsection constitutes a separate offense.

(c) The following may maintain an action to enjoin an individual or entity from continuing to violate this section:

(1) The board.

(2) The attorney general.

(3) The prosecuting attorney of a county in which a violation occurs.

(d) A purchaser has a private right of action against a seller who commits an uncured deceptive act.

(e) A trustee or escrow agent, acting as a fiduciary, that disburses funds in a trust or escrow account established under this chapter without verifying that the seller has delivered the services or merchandise for which the funds were deposited through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

SECTION 11. IC 30-2-13-39 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 39. (a) This section does not apply to a trust funded by the method described in section 11(c) of this chapter.**

(b) A seller may not be an affiliate, a parent, or a subsidiary organization of the trustee or escrow agent, acting as a fiduciary, of a trust or escrow account established after June 30, 2008, to hold consideration paid for services or merchandise subject to a contract entered into under this chapter by the seller and a purchaser.

SECTION 12. IC 30-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A trust is a fiduciary relationship between a person who, as trustee, holds title to property and another person for whom, as beneficiary, the title is held.

(b) Subject to IC 30-4-2-8, the same person may be both the trustee and a beneficiary.

(c) The rules of law contained in this article do not apply to:

(1) trusts created by operation of law;

(2) business trusts (as defined in IC 23-5-1);

(3) security instruments and creditor arrangements;

(4) voting trusts;

(5) religious, educational, and cultural institutions, created in other than trust form, except with respect to the application of IC 30-4-5-18 through IC 30-4-5-23 as those sections relate to the maintenance of federal income tax exemption privileges to which an institution is entitled;

(6) corporations and other entities governed by IC 23-17, except with respect to IC 30-4-5-18 through IC 30-4-5-23 as those sections relate to the maintenance of federal income tax exemption privileges to which a corporation or other entity is entitled;

(7) **except as provided in this article for trusts for a benevolent public purpose and as provided in the Indiana uniform prudent investor act (IC 30-4-3.5):**

(A) prepaid funeral plans;

~~(8)~~ **(B)** trusts for the care and upkeep of cemeteries; **and**

~~(9)~~ **(C)** agreements to furnish funeral services; and

~~(10)~~ **(8)** trusts created or authorized by statute other than this article.

(d) IC 30-4-3-2(a) applies to an employee benefit trust that meets the requirements set forth in IC 30-4-3-2(c). However, no other provision of this article applies to an employee benefit trust.

SECTION 13. IC 30-4-1-2, AS AMENDED BY P.L.238-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this article:

(1) "Adult" means any person eighteen (18) years of age or older.

(2) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, joint venturer, a corporation subject to common control with the trustee, a shareholder, or corporation who controls the trustee or a corporation controlled by the trustee other than as a fiduciary, an attorney, or an agent.

(3) "Beneficiary" has the meaning set forth in IC 30-2-14-2.

(4) "Breach of trust" means a violation by the trustee of any duty which is owed to the settlor or beneficiary.

(5) "Charitable trust" means a trust in which all the beneficiaries are the general public or organizations, including trusts, corporations, and associations, and that is organized and operated wholly for religious, charitable, scientific, public safety testing, literary, or educational purposes. The term does not include charitable remainder trusts, charitable lead trusts, pooled income funds, or any other form of split-interest charitable trust that has at least one (1) noncharitable beneficiary.

(6) "Court" means a court having jurisdiction over trust matters.

(7) "Income", except as otherwise stated in a trust agreement, has the meaning set forth in IC 30-2-14-4.

(8) "Income beneficiary" has the meaning set forth in IC 30-2-14-5.

(9) "Inventory value" means the cost of property to the settlor or the trustee at the time of acquisition or the market value of the property at the time it is delivered to the trustee, or the value of the property as finally determined for purposes of an estate or inheritance tax.

(10) "Minor" means any person under the age of eighteen (18) years.

(11) "Person" has the meaning set forth in IC 30-2-14-9.

(12) "Personal representative" means an executor or administrator

of a decedent's or absentee's estate, guardian of the person or estate, guardian ad litem or other court appointed representative, next friend, parent or custodian of a minor, attorney in fact, or custodian of an incapacitated person (as defined in IC 29-3-1-7.5).

(13) "Principal" has the meaning set forth in IC 30-2-14-10.

(14) "Qualified beneficiary" means:

(A) a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a distributee or permissible distributee of trust income or principal;

(ii) would be a distributee or permissible distributee of trust income or principal if the interest of the distributee described in item (i) terminated on that date;

(iii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

(iv) has sent the trustee a request for notice;

(v) is a charitable organization expressly designated to receive distributions under the terms of a charitable trust;

(vi) is a person appointed to enforce a trust for the care of an animal under IC 30-4-2-18; or

(vii) is a person appointed to enforce a trust for a noncharitable purpose under IC 30-4-2-19; or

(B) the attorney general, if the trust is a charitable trust having its principal place of administration in Indiana.

(15) "Remainderman" means a beneficiary entitled to principal, including income which has been accumulated and added to the principal.

(16) "Settlor" means a person who establishes a trust including the testator of a will under which a trust is created.

(17) "Trust estate" means the trust property and the income derived from its use.

(18) "Trust for a benevolent public purpose" means a charitable trust (as defined in subdivision (5)), a split-interest trust (as defined in Section 4947 of the Internal Revenue Code), **a perpetual care fund or an endowment care fund established under IC 23-14-48-2, a prepaid funeral plan or funeral trust established under IC 30-2-9, a funeral trust established under**

IC 30-2-10, a trust or an escrow account created from payments of funeral, burial services, or merchandise in advance of need described in IC 30-2-13, and any other form of split-interest charitable trust that has both charitable and noncharitable beneficiaries, including but not limited to charitable remainder trusts, charitable lead trusts, and charitable pooled income funds.

(19) "Trust property" means property either placed in trust or purchased or otherwise acquired by the trustee for the trust regardless of whether the trust property is titled in the name of the trustee or the name of the trust.

(20) "Trustee" has the meaning set forth in IC 30-2-14-13.

SECTION 14. IC 30-4-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as otherwise provided in subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provision of the trust.

(c) This chapter applies to a trustee or escrow agent, acting as fiduciary, of:

(1) a perpetual care fund or an endowment care fund established under IC 23-14-48-2;

(2) a prepaid funeral plan or funeral trust established under IC 30-2-9;

(3) a funeral trust established under IC 30-2-10; or

(4) a trust or escrow account created from payments of funeral, burial services, or merchandise in advance of need, as described in IC 30-2-13.

SECTION 15. IC 30-4-5.5-1, AS ADDED BY P.L.245-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This section applies ~~if~~ **to the following:**

(1) A trustee of a benevolent trust, ~~does any of the following:~~ **including a perpetual care fund or endowment care fund established under IC 23-14-48 or a prepaid funeral trust or escrow account established under IC 30-2-9, IC 30-2-10, or**

IC 30-2-13.

(2) A cemetery owner.

(3) A funeral home.

(4) A beneficiary of a contract entered into under IC 30-2-9.

(5) A seller (as defined in IC 30-2-13-10) under IC 30-2-13.

(6) Any other person that holds a perpetual care fund, an endowment care fund, or a prepaid funeral trust fund.

(b) A person described in subsection (a) may not do any of the following:

(1) ~~Commits~~ **Commit** a breach of trust.

(2) ~~Violates~~ **Violate** the mandate of a charitable trust.

(3) ~~Violates~~ **Violate** a duty listed in this article.

(4) Fail to comply with a requirement or prohibition set forth in any of the following:

(A) IC 23-14-48.

(B) IC 23-14-48.5.

(C) IC 23-14-49.

(D) IC 23-14-51.

(E) IC 30-2-9.

(F) IC 30-2-10.

(G) IC 30-2-13.

(H) IC 30-4.

~~(b)~~ **(c)** The attorney general may petition a court to issue one (1) or more of the following remedies for ~~an action~~ **a breach, violation, or failure** enumerated in subsection ~~(a).~~ **(b):**

(1) Injunctive relief.

(2) Appointment of temporary or permanent receivers.

(3) Permanent removal of trustees.

(4) Appointment of permanent replacement trustees subject to court approval.

A remedy under this subsection is in addition to any other remedy.

~~(c)~~ **(d)** The attorney general may seek a remedy listed in subsection ~~(b)~~ **(c)** against a trustee, ~~or~~ a trust, **or any other person described in subsection (a) for a breach, violation, or failure enumerated in subsection (b).**

(e) A court in which an action is brought under this section may do the following:

(1) Issue a temporary restraining order, preliminary

injunction, or permanent injunction.

(2) Order a trustee, an escrow agent, a seller (as defined in IC 30-2-13-10), a cemetery owner, or a funeral home to pay restitution or money unlawfully received or retained from purchasers and deposit the restitution or money into an escrow account for distribution to aggrieved purchasers.

(3) Order a trustee, an escrow agent, a seller (as defined in IC 30-2-13-10), a cemetery owner, or a funeral home to reimburse the state for reasonable costs incurred by the attorney general in investigating and prosecuting a violation of this section.

(4) Impose civil penalties.

(5) Provide for the appointment of a receiver.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) The state board of funeral and cemetery service established by IC 25-15-9-1 shall adopt rules under IC 4-22-2 to implement:**

(1) IC 30-2-9-7(c);

(2) IC 30-2-10-9(c); and

(3) IC 30-2-13-38(e);

all as added by this act, before January 1, 2009.

(b) This SECTION expires January 2, 2009.

SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the probate code study commission established by IC 2-5-16-2.**

(b) The commission shall study and make findings and recommendations concerning the following:

(1) Whether current law is adequate to:

(A) protect money and property placed in cemetery perpetual care trusts and preneed funeral trusts; and

(B) ensure that the money is used for its intended purposes.

(2) Whether additional restrictions, prohibitions, or rules are needed concerning cemetery perpetual care trusts and preneed funeral trusts to sufficiently protect consumers and the general public.

(3) Whether it is appropriate to revise Indiana law concerning funeral and cemetery trusts.

(4) Approaches used by other states to regulate funeral and cemetery trusts, trustees, funeral service and merchandise sellers, funeral home owners and operators, and cemetery

owners.

(5) Any other matter concerning funeral and cemetery trusts the commission considers appropriate.

(c) The commission shall report its finding and recommendations to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2008.

(d) This SECTION expires November 2, 2008.

SECTION 18. **An emergency is declared for this act.**

P.L.62-2008

[H.1061. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-31-2.9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The residential landlord-tenant statutes do not apply to any of the following arrangements unless the arrangement was created to avoid application of the residential landlord-tenant statutes:

(1) Residence at a rental unit owned or operated by an institution that is directly related to detention or the provision of medical care, maternity home care, education, counseling, religious service, geriatric service, or a similar service.

(2) Occupancy under a contract of sale of a rental unit or the property of which the rental unit is a part if the occupant is the purchaser or a person who succeeds to the purchaser's interest. **However, the residential landlord-tenant statutes apply to occupancy of a rental unit under a rental agreement described in IC 32-31-3-7(b).**

(3) Occupancy by a member of a fraternal or social organization in the part of a structure operated for the benefit of the

organization.

(4) Transient occupancy in a hotel, motel, or other lodging.

(5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in or about the premises.

(6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

(7) Occupancy under a rental agreement covering property used by the occupant primarily for agricultural purposes.

SECTION 2. IC 32-31-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. **(a)** As used in this chapter, "rental agreement" means an agreement together with any modifications, embodying the terms and conditions concerning the use and occupancy of a rental unit.

(b) The term includes an agreement, regardless of what the agreement is called, that satisfies the following:

(1) The agreement is entered into after June 30, 2008.

(2) The agreement provides for a rental period, explicitly or implicitly, regardless of the term of the rental period.

(3) The agreement contains an option to purchase.

SECTION 3. IC 32-31-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies only to dwelling units that are let for rent **under a rental agreement entered into** after June 30, 2002.

(b) This chapter does not apply to dwelling units that are let for rent with an option to purchase **under an agreement entered into before July 1, 2008.**

SECTION 4. IC 32-31-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies only to dwelling units that are let for rent **under a rental agreement entered into** after June 30, 2002.

(b) This chapter does not apply to dwelling units that are let for rent with an option to purchase **under an agreement entered into before July 1, 2008.**

P.L.63-2008
[H.1062. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 16. Architectural Salvage Material Dealers

Sec. 1. This chapter does not apply to the purchase of valuable metal (as defined in IC 25-37.5-1-1(a)) by a valuable metal dealer regulated under IC 25-37.5.

Sec. 2. (a) As used in this chapter, "architectural salvage material" means an item originally installed on or in a dwelling, a business, or any other structure and subsequently removed from the dwelling, business, or other structure.

(b) The term includes the following:

(1) Aluminum, wood, or vinyl siding.

(2) Balustrades or other stair parts.

(3) Bathroom or kitchen cabinets or fixtures.

(4) Doors, door architraves, or doorknobs.

(5) Light fixtures.

(6) Mantelpieces.

(7) Plumbing.

(8) Shutters.

(9) Windows and window architraves, including stained glass or leaded glass window panes.

(10) Wood trim.

Sec. 3. As used in this chapter, "dealer" means a person who purchases or otherwise acquires architectural salvage material for resale or reuse as part of the normal course of the person's business.

Sec. 4. Before a person may sell or otherwise transfer ownership

of architectural salvage material to a dealer, the person must present government issued identification to the dealer to verify the identity of the person.

Sec. 5. A dealer may not purchase or otherwise obtain architectural salvage material:

(1) from a person who is less than eighteen (18) years of age; or

(2) that the dealer believes or should have reason to believe is stolen property acquired as a result of a crime.

Sec. 6. (a) A dealer shall keep a record book that contains the following information concerning architectural salvage material received by the dealer:

(1) An accurate description of any architectural salvage material received by the dealer. If multiple articles of a similar nature that do not contain an identification or serial number are delivered together in one (1) transaction to the dealer, the description of the articles is adequate if the description contains:

(A) the quantity of the articles delivered; and

(B) a physical description of the type of articles delivered, including any unique identifying marks, numbers, names, letters, or special features.

(2) The date and time of the transaction.

(3) The:

(A) name, address, date of birth, and telephone number; and

(B) signature;

of the person who sold or otherwise transferred ownership of the architectural salvage material to the dealer.

(4) The:

(A) type of government issued identification used to verify the identity of the person who sold or otherwise transferred ownership of the architectural salvage material to the dealer as described in section 4 of this chapter;

(B) name of the governmental agency that issued the identification; and

(C) identification number printed on the government issued identification.

(b) The record book described in subsection (a) must be open to inspection by a law enforcement officer at all reasonable times.

(c) A dealer shall retain a record book described in subsection (a) for at least two (2) years after the date of the most recent transaction recorded in the book.

Sec. 7. If a dealer receives a notice from a law enforcement agency to hold architectural salvage material possessed by the dealer, the dealer shall hold the architectural salvage material for at least five (5) business days after the date the dealer receives the notice.

Sec. 8. (a) Records and information generated by a dealer concerning architectural salvage material are confidential under IC 5-14-3-4.

(b) A law enforcement officer may obtain or receive records and information described in subsection (a) for use in the official law enforcement purpose of investigating crime.

(c) A law enforcement officer may disclose the name and address of a dealer to an adverse claimant in the case of a dispute over ownership of architectural salvage material in possession of the dealer.

Sec. 9. A person who violates this chapter commits a Class A infraction.

SECTION 2. IC 25-37.5-1-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.3. As used in this chapter, "ferrous metal" means any metal containing a significant quantity of iron or steel.**

SECTION 3. IC 25-37.5-1-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.6. (a) As used in this chapter, "nonferrous metal" means any metal that does not contain a significant quantity of iron or steel.**

(b) The term includes the following:

(1) Aluminum.

(2) Brass.

(3) Bronze.

(4) Copper.

(5) Lead.

(6) Nickel.

(7) Zinc.

(8) An alloy of a metal listed in subdivisions (1) through (7).

SECTION 4. IC 25-37.5-1-1, AS AMENDED BY P.L.2-2007, SECTION 349, AND AS AMENDED BY P.L.170-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of ~~copper, copper alloy, brass, aluminum, or aluminum alloy~~ **ferrous metal or nonferrous metal** that is readily used or useable:

(1) by a public utility, **a** railroad, **a** county, city, or state highway department, **a** public or private school, or ~~an~~ *a postsecondary educational* institution; ~~*of higher education.*~~ *or*

(2) on residential or commercial property.

(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk carts or trucks.

(c) As used in this chapter, "purchase" means acquiring a valuable metal product or products by a valuable metal dealer in a single transaction of one hundred dollars ($100) or more for a consideration, but does not include purchases between scrap metal processing facilities (as defined in ~~IC 8-12-1-3(d)).~~ **IC 8-23-1-36).**

SECTION 5. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The sheriff shall:

(1) arrest without process persons who commit an offense within the sheriff's view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(2) suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary;

(3) pursue and jail felons;

(4) execute all process directed to the sheriff by legal authority;

(5) serve all process directed to the sheriff from a court or the county executive;

(6) attend and preserve order in all courts of the county;

(7) take care of the county jail and the prisoners there;

(8) take photographs, fingerprints, and other identification data as the sheriff shall prescribe of persons taken into custody for felonies or misdemeanors; and

(9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

(c) The sheriff may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, and auctions. The sheriff may authorize any deputy in writing to exercise the same powers.

SECTION 6. IC 36-8-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The police department shall, within the city:

(1) preserve peace;

(2) prevent offenses;

(3) detect and arrest criminals;

(4) suppress riots, mobs, and insurrections;

(5) disperse unlawful and dangerous assemblages and assemblages that obstruct the free passage of public streets, sidewalks, parks, and places;

(6) protect the rights of persons and property;

(7) guard the public health;

(8) preserve order at elections and public meetings;

(9) direct the movement of vehicles in public ways or public places;

(10) remove all nuisances in public parks or public ways;

(11) provide proper police assistance at fires;

(12) assist, advise, and protect strangers and travelers in public

ways or at transportation facilities;

(13) carefully observe and inspect all places of business under license, or required to have them; and

(14) enforce and prevent the violation of all laws in force in the city.

(b) The police chief and each captain, in ~~his~~ **the captain's** precinct **or district,** may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, **architectural salvage material dealers (as defined in IC 24-4-16-3),** and auctions. Any member of the department may be authorized by the chief in writing to exercise the same powers.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "sentencing policy study committee" refers to the committee established by P.L.216-2007, SECTION 56.**

(b) The legislative council shall assign to the sentencing policy study committee for study the topic of the theft of salvaged material, including valuable metals and architectural salvage material. The legislative council shall instruct the sentencing policy study committee to specifically examine the effectiveness of enforcement mechanisms in combating the theft of valuable metals, architectural salvage materials, and other salvaged materials. The sentencing policy study committee may examine any other issue related the theft of salvaged material.

(c) This SECTION expires November 1, 2008.

SECTION 8. **An emergency is declared for this act.**

P.L.64-2008
[H.1074. Approved March 13, 2008.]

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

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

SECTION 1. IC 35-44-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) As used in this section, "officer" includes the following:**

(1) A person employed by:

(A) the department of correction;

(B) a law enforcement agency;

(C) a probation department;

(D) a county jail; or

(E) a circuit, superior, county, probate, city, or town court;

who is required to carry a firearm in performance of the person's official duties.

(2) A law enforcement officer.

(b) A person who:

(1) knows that another person is an officer; and

(2) knowingly or intentionally takes or attempts to take a firearm (as defined in IC 35-47-1-5) or weapon that the officer is authorized to carry from the officer or from the immediate proximity of the officer:

(A) without the consent of the officer; and

(B) while the officer is engaged in the performance of his or her official duties;

commits disarming a law enforcement officer, a Class C felony. However, the offense is a Class B felony if it results in serious bodily injury to the officer, and the offense is a Class A felony if it results in death to the officer or if a firearm (as defined in IC 35-47-1-5) was taken and the offense results in serious bodily

injury to the officer.

SECTION 2. IC 35-50-2-2, AS AMENDED BY P.L.216-2007, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) Except as provided in subsection (i), with respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A **felony** or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) except as provided in subsection (i), child molesting (IC 35-42-4-3) as a Class A or Class B felony, unless:

(i) the felony committed was child molesting as a Class B felony;

(ii) the victim was not less than twelve (12) years old at the time the offense was committed;

(iii) the person is not more than four (4) years older than the victim, or more than five (5) years older than the victim if the relationship between the person and the victim was a dating relationship or an ongoing personal relationship (not including a family relationship);

(iv) the person did not have a position of authority or substantial influence over the victim; and

(v) the person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(R) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(S) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); ~~or~~

(T) aggravated battery (IC 35-42-2-1.5); **or**

(U) disarming a law enforcement officer (IC 35-44-3-3.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of the sentence of a sex or violent offender (as defined in IC 11-8-8-5) that is suspendible under subsection (b), the court shall place the sex or violent offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be suspended.

(i) If a person is:

(1) convicted of child molesting (IC 35-42-4-3) as a Class A felony against a victim less than twelve (12) years of age; and

(2) at least twenty-one (21) years of age;

the court may suspend only that part of the sentence that is in excess of thirty (30) years.

P.L.65-2008

[H.1114. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Except as provided in subsections (c) and (d),~~ Members of the police and fire departments must reside in Indiana ~~in one (1) of the following areas:~~ **within:**

(1) ~~Within~~ the county in which the city ~~town, or township~~ is located; or

(2) ~~In~~ a county that is contiguous to the county in which the city

~~town, or township~~ is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) A ~~municipality~~ **city** with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the ~~municipality's~~ **city's** police or fire department to comply with the following:

(1) Reside within the county in which the ~~municipality~~ **city** is located.

(2) Have adequate means of transportation into the ~~municipality.~~ **city.**

(3) Maintain in the member's residence telephone service with the ~~municipality.~~ **city.**

(d) This subsection applies to a ~~municipality~~ **city** that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.

A ~~municipality~~ **city** may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the ~~municipality~~ **city** until the member has served in the department for five (5) years.

(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a ~~municipality's~~ **city's** police or fire department to reside within the county in which the ~~municipality~~ **city** is located if the member resides outside the county on the date the ordinance is adopted.

SECTION 2. IC 36-8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 4.5. Town Police and Fire Employment Policies

Sec. 1. This chapter applies to the following:

(1) A member of a town police department under IC 36-5-7 or IC 36-8-9.

(2) A member of a town fire department.

Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

Sec. 3. As used in this chapter, "member of a town fire

department" does not include a volunteer firefighter under IC 36-8-12-2.

Sec. 4. A member of a town police or fire department must reside in Indiana within:

(1) the county in which the town is located; or

(2) a county that is contiguous to the county in which the town is located.

Sec. 5. A town with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the town police or fire department to satisfy all of the following:

(1) Reside within:

(A) the county in which the town is located; or

(B) a distance from the town stated in the ordinance.

(2) Have adequate means of transportation into the town.

(3) Maintain in the member's residence telephone service with the town.

Sec. 6. This section applies to a town that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this section before September 1, 1984.

A town may require, in addition to the requirements of section 5 of this chapter, that a member of the police or fire department reside within the town until the member has served in the department for five (5) years.

Sec. 7. An ordinance adopted under section 5 or 6 of this chapter may not require a member of a town police or fire department to comply with section 5(1) of this chapter if the member resides:

(1) outside the county; or

(2) a distance outside the town greater than stated in the ordinance;

on the date the ordinance is adopted.

Sec. 8. Notwithstanding any other law, a member appointed to a town police department under IC 36-5-7 or IC 36-8-9 before July 1, 2008, may not be required to reside within:

(1) the county in which the town is located; or

(2) a county that is contiguous to the county in which the town is located;

if the member resided within a county that is noncontiguous to the

county in which the town is located on July 1, 2008.

Sec. 9. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the town is located except:

(1) during the performance of official duties; or

(2) as provided for by department regulation.

SECTION 3. IC 36-8-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board may appoint, subject to the qualifications for employment determined by the board and approved by the town legislative body, as many persons as necessary to serve in the police department of the town. One (1) person shall be appointed to serve as the police chief. The board may also appoint other employees that are necessary to carry on the work of the police department.

(b) The board may recommend and the town legislative body shall determine the compensation to be paid to members of the police department in amounts that are just and reasonable.

(c) All persons appointed must be of good moral character and serve only during good behavior. The board constitutes the safety board of the town for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of any member of the police department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 also apply to the safety board and the police chief.

(d) The board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.

~~(e) Members of the police department must:~~

~~(1) reside within the county in which the town is located;~~

~~(2) reside within fifteen (15) miles of the corporate boundaries of the town;~~

~~(3) have adequate means of transportation into the town; and~~

~~(4) maintain in their residence telephone service with the town.~~

SECTION 4. IC 36-8-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 13.5. Township Fire Department Employment Policies

Sec. 1. This chapter applies to all townships except a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.

Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

Sec. 3. As used in this chapter, "member of a township fire department" does not include a volunteer firefighter under IC 36-8-12-2.

Sec. 4. A member of a township fire department must reside in Indiana within:

(1) the county in which the township is located; or

(2) a county that is contiguous to the county in which the township is located.

Sec. 5. A township with a population of less than seven thousand five hundred (7,500) may adopt a resolution that requires a member of the township fire department to satisfy all of the following:

(1) Reside within:

(A) the county in which the township is located; or

(B) a distance from the township stated in the resolution.

(2) Have adequate means of transportation into the township.

(3) Maintain in the member's residence telephone service with the township.

Sec. 6. This section applies to a township that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted a resolution to establish the requirements described in this section before September 1, 1984.

A township may require, in addition to the requirements of section 5 of this chapter, that a member of the township fire department reside within the township until the member has served in the department for five (5) years.

Sec. 7. A resolution adopted under section 5 or 6 of this chapter may not require a member of a township fire department to comply with section 5(1) of this chapter if the member resides:

(1) outside the county; or

(2) a distance outside the township greater than stated in the resolution;

on the date the resolution is adopted.

SECTION 5. [EFFECTIVE JULY 1, 2008] **(a) IC 36-8-4.5-9, as added by this act, does not apply to or abrogate an agreement or a contract in effect on July 1, 2008.**

(b) IC 36-8-4.5-9, as added by this act, applies to an agreement or a contract entered into, renewed, or extended after June 30, 2008.

(c) This SECTION expires July 1, 2011.

P.L.66-2008

[H.1121. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 103. **(a)** "Foundation" refers to the Indiana natural resources foundation.

(b) For purposes of IC 14-20-1, "foundation" refers to:

(1) the Indiana state museum foundation; or

(2) another nonprofit organization established to promote:

(A) interest in; and

(B) the use of;

the Indiana state museum system.

SECTION 2. IC 14-9-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Money in a fund does not revert to the state general fund at the end of a state fiscal year. ~~until the fund contains fifty thousand dollars ($50,000). Any amount greater than fifty thousand dollars ($50,000) reverts to the state general fund at the end of each state fiscal year.~~

SECTION 3. IC 14-9-5-4 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. (a) As used in this section, "account" means the Indiana sportsmen's benevolence account established by subsection (b).**

(b) The Indiana sportsmen's benevolence account is established within the fund for the division of law enforcement to encourage citizen participation in feeding the state's hungry through donations of wild game that has been lawfully hunted.

(c) The account consists of:

(1) gifts;

(2) donations; and

(3) proceeds derived from marketing by the division of law enforcement of goods related to the feeding of the state's hungry through donations of wild game under subsection (a).

(d) The expenses of administering the account shall be paid from money in the account.

(e) The division of law enforcement shall:

(1) conduct a publicity campaign relating to feeding the state's hungry through donations of wild game;

(2) coordinate with nonprofit entities and other entities created with goals of feeding the state's hungry; and

(3) engage in any other activities to further the goals of this section.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

SECTION 4. IC 14-20-1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) The state museum development fund is established for the purpose of promoting interest in and use of the Indiana state museum.

(b) The state museum development fund shall be administered by the department **or an entity designated by the department.** The state museum development fund consists of revenue generated by exhibit fees, concessions, donations, grants, and other miscellaneous revenue. Money in the state museum development fund at the end of a state fiscal year does not revert to the state general fund.

(c) The balance of the state museum development fund is

continuously appropriated and may be used at the request of the department with the approval of the budget agency after review by the budget committee.

SECTION 5. IC 14-20-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter, "foundation" refers to:**

(1) the Indiana state museum foundation; or

(2) another nonprofit organization established to promote:

(A) interest in; and

(B) the use of;

the Indiana state museum system.

SECTION 6. IC 14-20-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The division consists of the following two (2) sections:

(1) The section of museums.

(2) The section of historic sites.

~~(b) The division director may not serve as the head of a section of the division.~~

~~(c) An individual may not serve as the head of more than one (1) section of the division.~~

~~(d)~~ **(b)** There must be a separate line item for each section of the division in each bill appropriating money to the division.

SECTION 7. IC 14-20-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The board of trustees for the division of state museums and historic sites is established.

(b) The trustees consist of thirteen (13) members as follows:

(1) The director of the department, who shall serve as chairman.

(2) Twelve (12) members appointed by the governor as follows:

(A) One (1) member of the Indiana State Museum ~~Society~~ **Foundation, Inc.,** nominated by the ~~Society.~~ **foundation.**

~~(B) One (1) member of the Indiana State Museum Volunteers nominated by the volunteers.~~

~~(C)~~ **(B)** Two (2) members must be recognized supporters of historic sites.

~~(D)~~ **(C)** Not more than seven (7) members may be members of the same political party.

~~(E)~~ **(D)** Not more than two (2) members may be from the same

county.

~~(F)~~ **(E)** Each congressional district in Indiana must be represented by at least one (1) member.

(c) The terms of the appointed members shall be staggered.

SECTION 8. IC 14-20-1-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 26. (a) The department may, by contract, delegate the management of the:**

(1) Indiana state museum;

(2) state museum development fund; or

(3) historic sites property held and managed by the department;

to the foundation under terms the department considers advisable.

(b) Under a contract entered into under subsection (a), the department may:

(1) provide office facilities and administrative support to the foundation;

(2) assign department employees to administrative and program duties at the state museum;

(3) act in an advisory capacity for the foundation; and

(4) accept donations on behalf of the foundation.

SECTION 9. IC 14-22-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "game bird" means pheasant, quail, grouse, **and** wild turkey. ~~and Hungarian partridge.~~

SECTION 10. IC 14-22-12-1, AS AMENDED BY P.L.14-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The department may issue the following licenses and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents ($8.75).

(2) A resident yearly license to hunt, eight dollars and seventy-five cents ($8.75).

(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents ($13.75).

(4) A resident yearly license to trap, eight dollars and seventy-five

cents ($8.75).
(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents ($24.75).
(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents ($60.75).
(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents ($117.75). However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.
(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents ($4.75).
(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents ($12.75).
(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents ($25.75).
(11) A resident or nonresident yearly stamp to fish for trout and salmon, six dollars and seventy-five cents ($6.75).
(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, **rifle,** or handgun, thirteen dollars and seventy-five cents ($13.75).
(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents ($13.75).
(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents ($13.75).
(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, **rifle,** or handgun, one hundred twenty dollars and seventy-five cents ($120.75).
(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents ($120.75).
(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents ($120.75).
(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the

department under IC 4-22-2, five dollars ($5).

(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars ($10).

(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents ($14.75).

(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(22) ~~If a fall wild turkey season is established,~~ A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents ($14.75).

(23) ~~If a fall wild turkey season is established,~~ A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(24) A resident youth yearly consolidated license to hunt and fish, six dollars ($6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt and fish and all other yearly licenses, stamps, or permits to hunt and fish for a specific species or by a specific means.

(25) A resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish

and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(26) A resident senior "fish for life" license, seventeen dollars ($17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

SECTION 11. IC 14-22-12-5, AS AMENDED BY P.L.225-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The department may issue a duplicate license to replace a lost license issued to an ~~Indiana resident~~ **individual** under sections 1 and 4 of this chapter.

(b) A duplicate license under subsection (a) must meet the following conditions:

(1) Be signed by the applicant.

(2) Be accompanied by a fee established by the commission.

P.L.67-2008

[H.1122. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-30-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Except as provided

in IC 33-33-45-6 and section 8 of this chapter, the juvenile law does not apply to the following:

~~(1) A child at least sixteen (16) years of age who allegedly committed a violation of a traffic law, the violation of which is a misdemeanor, unless the violation is an offense under IC 9-30-5.~~

~~(2)~~ **(1)** A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.

~~(3)~~ **(2)** A child who is alleged to have committed a violation of an ordinance.

~~(4)~~ **(3)** A child who:

(A) is alleged to have committed an act that would be a ~~crime~~ **felony** if committed by an adult; and

(B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having ~~misdemeanor or~~ felony jurisdiction.

SECTION 2. IC 31-30-1-4, AS AMENDED BY P.L.216-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

(1) IC 35-41-5-1(a) (attempted murder);

(2) IC 35-42-1-1 (murder);

(3) IC 35-42-3-2 (kidnapping);

(4) IC 35-42-4-1 (rape);

(5) IC 35-42-4-2 (criminal deviate conduct);

(6) IC 35-42-5-1 (robbery) if:

(A) the robbery was committed while armed with a deadly weapon; or

(B) the robbery results in bodily injury or serious bodily injury;

(7) IC 35-42-5-2 (carjacking);

(8) IC 35-45-9-3 (criminal gang activity);

(9) IC 35-45-9-4 (criminal gang intimidation);

(10) IC 35-47-2-1 (carrying a handgun without a license), **if charged as a felony;**

(11) IC 35-47-10 (children and firearms), **if charged as a felony;**

(12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or

(13) any offense that may be joined under IC 35-34-1-9(a)(2) with

any crime listed in subdivisions (1) through (12);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:

(1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or

(2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

and the individual was at least sixteen (16) years of age at the time of the alleged violation.

(c) Once an individual described in subsection (a) or (b) has been charged with any crime listed in subsection (a) or (b), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included offense. A plea of guilty to or a conviction of a lesser included offense does not vest jurisdiction in the juvenile court.

SECTION 3. IC 31-30-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Upon motion of the prosecuting attorney and after full investigation and hearing, the juvenile court may waive jurisdiction if it finds that:

(1) the child is charged with an act **that is a felony:**

(A) that is heinous or aggravated, with greater weight given to acts against the person than to acts against property; or

(B) that is a part of a repetitive pattern of delinquent acts, even though less serious;

(2) the child was at least fourteen (14) years of age when the act charged was allegedly committed;

(3) there is probable cause to believe that the child committed the act;

(4) the child is beyond rehabilitation under the juvenile justice system; and

(5) it is in the best interests of the safety and welfare of the community that the child stand trial as an adult.

SECTION 4. IC 31-37-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. Any facility that is used or has been used to house or hold juveniles shall give a representative or designee of the Indiana criminal justice institute's compliance monitoring program reasonable access to inspect and monitor the facility to ensure that the requirements of the Juvenile Justice and Delinquency Prevention Act are maintained.**

P.L.68-2008
[H.1144. Approved March 13, 2008.]

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

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

SECTION 1. IC 35-45-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 19. Failure to Report a Dead Body

Sec. 1. This chapter does not:

(1) apply to the driver of a vehicle involved in an accident that:

(A) results in the death of a person; and

(B) must be reported under IC 9-26-1-1; or

(2) supersede any law governing the reporting of a death by a hospital, health care facility, or provider.

Sec. 2. As used in this chapter, "public safety officer" means:

(1) a law enforcement officer;

(2) a correctional officer;

(3) a state university police officer;

(4) a firefighter;

(5) an emergency medical technician; or

(6) a paramedic.

Sec. 3. A person who:

(1) discovers or has custody of the body of a deceased person when it appears the deceased person died:

(A) by violence, suicide, or accident;

(B) suddenly, while in apparent good health;

(C) while unattended;

(D) from poisoning or an overdose of drugs;

(E) as the result of a disease that may constitute a threat to public health;

(F) as the result of:

(i) a disease;

(ii) an injury;

(iii) a toxic effect; or

(iv) unusual exertion;

incurred within the scope of the deceased person's employment;

(G) due to sudden infant death syndrome;

(H) as the result of a diagnostic or therapeutic procedure; or

(I) under any other suspicious or unusual circumstances; and

(2) knowingly or intentionally fails to report the body of the deceased person to a:

(A) public safety officer;

(B) coroner;

(C) physician; or

(D) 911 telephone call center;

within three (3) hours after finding the body;

commits failure to report a dead body, a Class A misdemeanor.

SECTION 2. [EFFECTIVE JULY 1, 2008] **IC 35-45-19-3, as added by this act, applies only to offenses committed after June 30, 2008.**

P.L.69-2008
[H.1162. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 2-5-29 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 29. Youth Advisory Council

Sec. 1. As used in this chapter, "council" refers to the youth advisory council established by section 2 of this chapter.

Sec. 2. The youth advisory council is established to provide to the general assembly information from young people concerning issues that are of importance to youth in Indiana, including:

(1) education;

(2) employment;

(3) strategies to increase youth involvement in state and local government;

(4) safe environments for youth;

(5) substance abuse;

(6) emotional and physical health;

(7) foster care;

(8) poverty;

(9) homelessness; and

(10) youth access to state and local services.

Sec. 3. (a) The council consists of the following members, who must be at least fourteen (14) years of age and not more than eighteen (18) years of age at the time of appointment:

(1) Five (5) members appointed by the president pro tempore of the senate.

(2) Five (5) members appointed by the minority leader of the senate.

(3) Five (5) members appointed by the speaker of the house of

representatives.

(4) Five (5) members appointed by the minority leader of the house of representatives.

(5) Two (2) members appointed by the governor.

(b) The members of the council shall be selected so as to give representation to the various geographical areas of Indiana.

(c) The members of the council shall annually elect a chairperson of the council from among the members.

(d) Members of the council shall serve for a two (2) year term and may be reappointed.

Sec. 4. The council has the following duties:

(1) To advise the general assembly concerning proposed and pending legislation, including budget expenditures and policy matters related to youth.

(2) To advise the standing committees and study committees of the general assembly concerning issues related to youth.

(3) To conduct periodic seminars for members of the council concerning leadership, government, and the general assembly.

(4) To report to the general assembly, not later than December 1 of each year, concerning the council's activities, including any proposed legislation to implement recommendations of the council. The report must be in an electronic format under IC 5-14-6.

Sec. 5. (a) The council shall meet at least three (3) times, and not more than six (6) times, per year.

(b) Meetings held under this section must include not more than two (2) public hearings per year concerning issues of importance to youth.

(c) The affirmative votes of a majority of the members appointed to the council are required for the council to take action on any measure, including annual reports.

Sec. 6. (a) The state superintendent of public instruction shall supervise the activities of the council.

(b) The department of education shall staff the council.

Sec. 7. (a) The expenses of the council shall be paid from the budget of the department of education.

(b) Each member of the council is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under

IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 8. This chapter expires June 30, 2012.

SECTION 2. IC 36-4-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 13. Legislative Body Youth Adviser

Sec. 1. The presiding officer of the legislative body of a municipality may appoint an individual who is not more than eighteen (18) years of age to serve as an adviser to the legislative body on matters affecting youth in the community.

Sec. 2. An individual appointed under section 1 of this chapter is not a member of the legislative body.

SECTION 3. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 2-5-29-3(c), as added by this act:**

(1) two (2) of the members initially appointed under IC 2-5-29-3(a)(1), as added by this act;

(2) three (3) of the members initially appointed under IC 2-5-29-3(a)(2), as added by this act;

(3) three (3) of the members initially appointed under IC 2-5-29-3(a)(3), as added by this act;

(4) two (2) of the members initially appointed under IC 2-5-29-3(a)(4), as added by this act; and

(5) one (1) of the members initially appointed under IC 2-5-29-3(a)(5), as added by this act;

shall serve an initial term of one (1) year.

(b) This SECTION expires June 30, 2009.

P.L.70-2008
[H.1164. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-12.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 12.6. Deduction for Model Residence

Sec. 0.5. As used in this chapter, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

Sec. 1. (a) As used in this chapter, "model residence" means real property that consists of a single family residence, single family townhouse, or single family condominium unit that:

(1) has never been occupied as a principal residence; and

(2) is used for display or demonstration to prospective buyers or lessees for purposes of potential acquisition or lease of a similar type of residence, townhouse, or condominium unit on:

(A) the same property; or

(B) other property.

(b) The term does not include any of the land on which the

residence, townhouse, or condominium unit is located.

(c) Real property described in subsection (a) that is used by the owner as the owner's regular office space may not be considered a model residence for purposes of this chapter. However, this subsection does not prohibit the use of a garage or other space in the real property:

(1) to store or display material used to promote the real property or other similar properties; or

(2) as a space for meetings with prospective buyers or lessees.

Sec. 2. (a) This section applies only to a model residence that is first assessed as:

(1) a partially completed structure; or

(2) a fully completed structure;

for the assessment date in 2009 or a later year.

(b) Except as provided in subsection (c) and sections 4, 5, and 6 of this chapter, and subject to sections 7 and 8 of this chapter, an owner of a model residence is entitled to a deduction from the assessed value of the model residence in the amount of fifty percent (50%) of the assessed value of the model residence for the following:

(1) Not more than one (1) assessment date for which the model residence is assessed as a partially completed structure.

(2) The assessment date for which the model residence is first assessed as a fully completed structure.

(3) The two (2) assessment dates that immediately succeed the assessment date referred to in subdivision (2).

(c) A deduction allowed for a model residence under this chapter for a particular assessment date is terminated if the model residence is sold:

(1) after the assessment date of that year but before January 1 of the following year; and

(2) to a person who does not continue to use the real property as a model residence.

The county auditor shall immediately mail notice of the termination to the former owner, the property owner, and the township assessor. The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction.

Sec. 3. (a) A property owner that qualifies for the deduction

under this chapter must file a statement containing the information required by subsection (b) with the county auditor to claim the deduction for each assessment date for which the property owner wishes to receive the deduction in the manner prescribed in rules adopted under section 9 of this chapter. The township assessor shall verify each statement filed under this section, and the county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the person is claiming the deduction.

(2) The full name and complete business address of the person claiming the deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the deduction.

(4) The name of any other county in which the person has applied for a deduction under this chapter for that assessment date.

(5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this chapter for that assessment date.

Sec. 4. (a) Subject to section 8 of this chapter, a property owner is entitled to a deduction under this chapter for an assessment date for not more than three (3) model residences in Indiana.

(b) The auditor of a county (referred to in this section as the "first county") with whom a statement is filed under section 3 of this chapter shall immediately prepare and transmit a copy of the statement to the auditor of any other county (referred to in this section as the "second county") if the property owner that claims the deduction owns or is buying a model residence located in the second county.

(c) The county auditor of the second county shall note on the copy of the statement whether the property owner has claimed a deduction for the current year under section 3 of this chapter for

a model residence located in the second county. The county auditor shall then return the copy of the statement to the auditor of the first county.

Sec. 5. A property owner may not receive a deduction under this chapter with respect to a model residence located in an allocation area (as defined in IC 6-1.1-21.2-3).

Sec. 6. A property owner that qualifies for a deduction for a year under this chapter and another statute with respect to the same model residence may not receive a deduction under both statutes for the model residence for that year.

Sec. 7. (a) If ownership of the model residence changes:

(1) a new owner that continues to use the property as a model residence may claim the deduction under this chapter; and

(2) the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied under section 2 of this chapter if ownership had not changed.

(b) A person who owns a model residence and claims a deduction under this chapter shall provide to the county auditor a notice that:

(1) informs the auditor of a transfer of the ownership of the model residence; and

(2) indicates whether the new owner is eligible to receive a deduction under this chapter.

The notice required by this subsection must be submitted to the county auditor at the same time that a sales disclosure form is filed under IC 6-1.1-5.5.

Sec. 8. The aggregate number of deductions claimed under this chapter for a particular assessment date by the owners of model residences who are a part of an affiliated group may not exceed three (3).

Sec. 9. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. [EFFECTIVE JANUARY 1, 2009] **(a) The department of local government finance may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-1.1-12.6, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

(1) The date that the department of local government finance adopts another temporary rule under this SECTION that repeals, amends, or supersedes the previously adopted temporary rule.

(2) The date that the department of local government finance adopts a permanent rule under IC 4-22-2 that repeals, amends, or supersedes the previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2011.

(b) This SECTION expires July 1, 2011.

SECTION 3. [EFFECTIVE JANUARY 1, 2009] **IC 6-1.1-12.6, as added by this act, applies only to property taxes first due and payable after 2009.**

P.L.71-2008

[H.1171. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-31-3-2, AS AMENDED BY P.L.22-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The commission shall establish standards for persons required to be certified by the commission to provide emergency medical services. To be certified, a person must meet the following minimum requirements:

(1) The personnel certified under this chapter must do the following:

(A) Meet the standards for education and training established by the commission by rule.

(B) Successfully complete a basic or an inservice course of education and training on sudden infant death syndrome that

is certified by the ~~Indiana emergency medical services~~ commission ~~(created under IC 16-31-2-1)~~ in conjunction with the state health commissioner.

(C) Beginning January 1, 2009, successfully complete a basic or an inservice course of education and training on autism that is certified by the commission.

(2) Ambulances to be used must conform with the requirements of the commission and must either be:

(A) covered by insurance issued by a company licensed to do business in Indiana in the amounts and under the terms required in rules adopted by the commission; or

(B) owned by a governmental entity covered under IC 34-13-3.

(3) Emergency ambulance service shall be provided in accordance with rules adopted by the commission. However, the rules adopted under this chapter may not prohibit the dispatch of an ambulance to aid an emergency patient because an emergency medical technician is not immediately available to staff the ambulance.

(4) Ambulances must be equipped with a system of emergency medical communications approved by the commission. The emergency medical communication system must properly integrate and coordinate appropriate local and state emergency communications systems and reasonably available area emergency medical facilities with the general public's need for emergency medical services.

(5) Emergency medical communications shall be provided in accordance with rules adopted by the commission.

(6) A nontransporting emergency medical services vehicle must conform with the commission's requirements.

P.L.72-2008
[H.1259. Approved March 13, 2008.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 22-12-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) "Class 2 structure" means any part of the following:

(1) A building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(2) An outbuilding for a structure described in subdivision (1), such as a garage, barn, or family swimming pool, **including an above ground swimming pool,** unless any part of the outbuilding is regularly used as a Class 1 structure.

(b) Subsection (a) does not include a vehicular bridge.

SECTION 2. IC 22-12-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 10. Above Ground Swimming Pools at Class 2 Structures

Sec. 1. This chapter applies only to an above ground swimming pool that is sold:

(1) for installation on property that:

(A) contains a Class 2 structure; and

(B) does not contain a Class 1 structure; and

(2) in Indiana after December 31, 2008.

Sec. 2. As used in this chapter, "above ground swimming pool" means any swimming pool whose sides rest fully above the surrounding earth.

Sec. 3. As used in this chapter, "pool retailer" means a person who sells an above ground swimming pool for installation on property that:

(1) contains a Class 2 structure; and

(2) does not contain a Class 1 structure.

Sec. 4. As used in this chapter, "swimming pool" has the meaning set forth in 675 IAC 20-1.1-18.

Sec. 5. A pool retailer who sells an above ground swimming pool that has walls that are at least forty-eight (48) inches high shall ensure that the above ground swimming pool is sold with an access ladder or steps that may be:

(1) removed; or

(2) secured and locked;

when the above ground swimming pool is not in use.

SECTION 3. IC 31-34-21-4, AS AMENDED BY P.L.145-2006, SECTION 316, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (f), at least ~~ten (10)~~ **seven (7)** days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall ~~send~~ **provide** notice of the review to each of the following:

(1) The child's parent, guardian, or custodian.

(2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.

(3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office;

(B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.

(4) The child's foster parent or long term foster parent.

~~(4)~~ **(5)** Any other person who:

(A) the department has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.

~~(5)~~ **(6)** Any other suitable relative or person whom the department knows has had a significant or caretaking relationship to the child.

~~(b) At least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall provide notice of the review to the child's foster parent or long term foster parent by the same process prescribed under Indiana Trial Rule 4.1. The department shall present proof of service of the notice at the case review.~~

(b) The department shall present proof of service of the notice required by subsection (a) at the periodic case review.

(c) The department shall provide notices under this section as provided in IC 31-32-1-4.

~~(c)~~ **(d)** The court shall provide to a person described in subsection (a) ~~or (b)~~ an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) ~~or (b)~~ to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a), ~~or (b),~~ may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

~~(d)~~ **(e)** Except as provided in subsection (f), this section does not exempt the department from sending a notice of the review to each party to the child in need of services proceeding.

~~(e) The court shall continue the review if, at the time of the review, the department has not provided the court with signed verification from the child's foster parent or long term foster parent, as obtained through subsection (b), that the foster parent or long term foster parent, has been notified of the review at least five (5) business days before the review. However, the court is not required to continue the review if the~~

~~child's foster parent or long term foster parent appears for the review.~~

(f) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a).

SECTION 4. IC 31-34-21-7, AS AMENDED BY P.L.138-2007, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under section 4 of this chapter, before approving a permanency plan under subdivision (5);

(4) consult with the child in person, or through an interview with or written statement or report submitted by:

(A) a guardian ad litem or court appointed special advocate for the child;

(B) a case manager; or

(C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child;

in an age appropriate manner as determined by the court, regarding the proposed permanency plan;

(5) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

(6) determine whether an existing permanency plan must be modified; and

(7) examine procedural safeguards used by the department to protect parental rights.

(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:

(1) require the department to ~~send~~ **provide** notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and

(2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section ~~4(c)~~ **4(d)** of this chapter.

(d) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:

(1) direct the department to establish a permanency plan within thirty (30) days; or

(2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 5. **An emergency is declared for this act.**

P.L.73-2008
[H.1266. Approved March 13, 2008.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "division" refers to the division of disability and rehabilitative services established by IC 12-9-1-1.**

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) As used in this SECTION, "waiver" refers to any waiver administered by the office and the division under section 1915(c) of the federal Social Security Act.

(d) Before July 1, 2008, the office shall apply to the United States Department of Health and Human Services for approval to amend a waiver to set priorities as described in subsection (e) in providing services under the waiver.

(e) The waiver amendment must provide for the following individuals to be given priority in receiving services under the waiver:

(1) An individual who is determined by the state department of health to no longer need or receive active treatment provided in a supervised group living setting.

(2) An individual who is receiving service under the direction of the division in a supervised group living setting, nursing facility, or large private intermediate care facility and has a history of unexplained injuries or documented abuse that is substantiated by the division and that threatens the health and welfare of the individual.

(3) A current resident, or the guardian of a resident who is incapacitated, of a large, private intermediate care facility for the mentally retarded who requests to leave the facility.

(4) An individual who will be attaining the maximum age for

a residential or group home setting funded by the department of education, the division of family resources, or the office.

(5) An individual for whom the primary caregiver of the individual is no longer able to care for the individual due to:

(A) the death of the primary caregiver;

(B) the long term institutionalization of the primary caregiver;

(C) the long term incapacitation of the primary caregiver; or

(D) the long term incarceration of the primary caregiver.

(6) An individual who is on the waiver waiting list and has been determined to have a shortened life span as defined by the division.

(7) Any other priority as determined by the division.

(f) The office may not implement the amendment to the waiver until the office files an affidavit with the governor attesting that the amendment to the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver amendment is approved.

(g) If the office receives approval for the amendment to the waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (f), the office shall implement the amendment to the waiver not more than sixty (60) days after the governor receives the affidavit.

(h) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(i) This SECTION expires July 1, 2016.

SECTION 2. **An emergency is declared for this act.**

P.L.74-2008
[H.1276. Approved March 13, 2008.]

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

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

SECTION 1. IC 35-33-8-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) This section applies only to a sexually violent predator defendant.**

(b) As used in this section, "sexually violent predator defendant" means a person who:

(1) is a sexually violent predator under IC 35-38-1-7.5; and

(2) is arrested for or charged with the commission of an offense that would classify the person as a sex or violent offender (as defined in IC 11-8-8-5).

(c) A court may not admit a:

(1) sexually violent predator defendant;

(2) person charged with child molesting (IC 35-42-4-3); or

(3) person charged with child solicitation (IC 35-42-4-6);

to bail until the court has conducted a bail hearing in open court. Except as provided in section 6 of this chapter, the court shall conduct a bail hearing not later than forty-eight (48) hours after the person has been arrested, unless exigent circumstances prevent holding the hearing within forty-eight (48) hours.

(d) At the conclusion of the hearing described in subsection (c), the court shall consider whether the factors described in IC 35-33-8-4 warrant the imposition of a bail amount that exceeds court or county guidelines, if applicable.

P.L.75-2008
[S.22. Approved March 14, 2008.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-28-5-3, AS AMENDED BY P.L.166-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The department shall designate:

(1) the grade point average required for each type of license; and

(2) the types of licenses to which the teachers' minimum salary laws apply, including nonrenewable one (1) year limited licenses.

(b) The department shall determine details of licensing not provided in this chapter, including requirements regarding the following:

(1) The conversion of one (1) type of license into another.

(2) The accreditation of teacher education schools and departments.

(3) The exchange and renewal of licenses.

(4) The endorsement of another state's license.

(5) The acceptance of credentials from teacher education institutions of another state.

(6) The academic and professional preparation for each type of license.

(7) The granting of permission to teach a high school subject area related to the subject area for which the teacher holds a license.

(8) The issuance of licenses on credentials.

(9) The type of license required for each school position.

(10) The size requirements for an elementary school requiring a licensed principal.

(11) Any other related matters.

The department shall establish at least one (1) system for renewing a teaching license that does not require a graduate degree.

(c) **This subsection does not apply to an applicant for a**

substitute teacher license. After June 30, 2007, the department may not issue an initial teaching license at any grade level to an applicant for an initial teaching license unless the applicant shows evidence that the applicant:

(1) has successfully completed training approved by the department in:

(A) cardiopulmonary resuscitation that includes a test demonstration on a mannequin;

(B) removing a foreign body causing an obstruction in an airway; and

(C) the Heimlich maneuver;

(2) holds a valid certification in each of the procedures described in subdivision (1) issued by:

(A) the American Red Cross;

(B) the American Heart Association; or

(C) a comparable organization or institution approved by the advisory board; or

(3) has physical limitations that make it impracticable for the applicant to complete a course or certification described in subdivision (1) or (2).

(d) The department shall periodically publish bulletins regarding:

(1) the details described in subsection (b);

(2) information on the types of licenses issued;

(3) the rules governing the issuance of each type of license; and

(4) other similar matters.

SECTION 2. IC 20-28-5-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. (a) Notwithstanding section 3(b)(6) of this chapter, the department shall grant an initial practitioner's license in a specific subject area to an applicant who:**

(1) has earned a postgraduate degree from a regionally accredited postsecondary educational institution in the subject area in which the applicant seeks to be licensed;

(2) has at least one (1) academic year of experience teaching students in a middle school, high school, or college classroom setting; and

(3) complies with sections 4, 9, and 12 of this chapter.

(b) An individual who receives an initial practitioner's license

under this section may teach in the specific subject for which the individual is licensed only in:

(1) high school; or

(2) middle school;

if the subject area is designated by the state board as having an insufficient supply of licensed teachers.

(c) After receiving an initial practitioner's license under this section, an applicant who seeks to renew the applicant's initial practitioner's license or obtain a proficient practitioner's license must:

(1) demonstrate that the applicant has:

(A) participated in cultural competency professional development activities;

(B) obtained training and information from a special education teacher concerning exceptional learners; and

(C) received:

(i) training or certification that complies; or

(ii) an exemption from compliance;

with the standards set forth in section 3(c) of this chapter; and

(2) meet the same requirements as other candidates.

P.L.76-2008

[S.51. Approved March 14, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-3-3, AS AMENDED BY P.L.72-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who ~~after June 30, 2007~~ is

reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the Indiana state teachers' retirement fund.

(b) Members' contributions, other than members' contributions paid on behalf of a member, shall be deducted from their compensation even if the net compensation to the member is less than the statutory minimum.

(c) The payment of a member's compensation minus the deduction constitutes a complete discharge of all claims for services rendered by the member during the period covered by the payment, except the claim for benefits under this article.

SECTION 2. IC 5-10.2-4-8, AS AMENDED BY P.L.72-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "exempt amount" means, in the case of a member who has not attained the Social Security normal retirement age for unreduced benefits, thirty-five thousand dollars ($35,000), computed for the calendar year in which a retired public employees' retirement fund member is reemployed and computed for the fiscal year in which a retired teachers' retirement fund member is reemployed.

(b) This subsection does not apply to a member who is employed by the department of education, ~~or after June 30, 2007, to~~ a member of the Indiana state teachers' retirement fund who is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, **or after June 30, 2008, a member of the public employees' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a covered position.** If a member who is receiving retirement benefits and who has not attained the Social Security normal retirement age for unreduced benefits:

(1) becomes reemployed in a position covered by this article; and

(2) earns in that position more than the exempt amount;

~~his~~ **the member's** retirement benefit payments shall stop, and the member shall begin making contributions as required in IC 5-10.2-3-2. However, employer contributions shall be made throughout the period of reemployment. The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.

(c) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than:

(1) ~~ninety (90)~~ **thirty (30)** days after the member's retirement, **for a member of the public employees' retirement fund; or**

(2) thirty (30) days after the member's retirement, for a member of the Indiana state teachers' retirement fund;

the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(d) This subsection does not apply ~~after June 30, 2007,~~ to a member of the Indiana state teachers' retirement fund who is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the Indiana state teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

(e) The following apply to a member of the Indiana state teachers' retirement fund who ~~after June 30, 2007,~~ is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.

(f) The thirty (30) day period provided for in subsection (c)(2) may be implemented unless the board of trustees of the Indiana state teachers' retirement fund receives a determination from the Internal Revenue Service prohibiting the implementation.

SECTION 3. IC 5-10.2-4-9, AS AMENDED BY P.L.72-2007,

SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) This section does not apply ~~after June 30, 2007,~~ to a member of the Indiana state teachers' retirement fund who is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the Indiana state teachers' retirement fund.

(b) If a member dies during reemployment and retirement benefits from before ~~his~~ **the member's** reemployment are payable after ~~his~~ **the member's** death, the payment of these amounts shall be made without change, and any additional benefit earned during reemployment shall be paid as provided in section 10 of this chapter.

SECTION 4. IC 5-10.2-4-10, AS AMENDED BY P.L.72-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) This section does not apply ~~after June 30, 2007,~~ to a member of the Indiana state teachers' retirement fund who is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the Indiana state teachers' retirement fund.

(b) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(c) Upon termination of reemployment, except by death, the retirement benefits from before the member's reemployment which are payable after termination shall be paid without change.

(d) If the member is reemployed for fewer than ninety (90) consecutive school or working days, upon termination of reemployment, contributions and interest credited to the member's annuity savings account shall be paid to the member.

(e) If the member is reemployed for ninety (90) or more consecutive school or working days, upon termination of reemployment, the member shall receive an additional benefit.

(f) The additional retirement benefit consists of the sum of a supplemental pension and a supplemental annuity. The supplemental pension is computed under section 4 of this chapter using the member's:

(1) years of service during the member's reemployment; and

(2) average compensation during the member's reemployment, if the member is reemployed for less than five (5) years, or average of the annual compensation (as defined in section 3 of this

chapter) during the member's reemployment.

If the member is entitled to a supplemental annuity, it consists of an annuity provided by contributions and interest credited to the member during reemployment, if any.

(g) The additional retirement benefits are guaranteed for five (5) years or until the member's death, whichever is later. The member may choose instead of the guaranteed payments any of the options under section 7 of this chapter for the payment of the member's additional retirement benefits.

(h) IC 5-10.2-2-7 applies to additional retirement benefits.

SECTION 5. IC 5-10.4-4-11, AS AMENDED BY P.L.72-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) This section does not apply ~~after June 30, 2007,~~ to a member who is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the fund.

(b) Each member shall contribute to the fund three percent (3%) of the member's compensation as set forth in IC 5-10.2-3. However, the member's employer may pay the contribution on behalf of the member.

(c) If a member's employer elects to pay the members' contributions for its employees, the employer must initiate the payments as part of salary and fringe benefit adjustments provided to these employees.

SECTION 6. IC 5-10.4-5-13, AS AMENDED BY P.L.72-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) IC 5-10.2-4-8, IC 5-10.2-4-9, and IC 5-10.2-4-10 apply to the reemployment of a retired member.

(b) This subsection does not apply ~~after June 30, 2007,~~ to a member who is reemployed more than ~~ninety (90)~~ **thirty (30)** days after the member's retirement in a position covered by the fund. For a retired member who withdraws from retirement status, resumes teaching, and again retires, the board shall pay the member, after the member's second or subsequent retirement, a monthly retirement benefit at least equal to the highest amount the retired member has received as a retirement benefit.

P.L.77-2008
[H.1036. Approved March 14, 2008.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-25-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 10. Previously Uninsured Motorist Registry

Sec. 1. As used in this chapter, "conviction" refers to a conviction for operating a motor vehicle without financial responsibility in violation of IC 9-25.

Sec. 2. As used in this chapter, "previously uninsured motorist" refers to a person:

(1) against whom a judgment is entered for; or

(2) who is convicted of;

operating a motor vehicle without financial responsibility in violation of IC 9-25 after December 31, 2009.

Sec. 3. As used in this chapter, "registry" refers to the electronic registry of previously uninsured motorists established under section 4 of this chapter.

Sec. 4. The bureau shall, not later than January 1, 2010, establish an electronic registry of previously uninsured motorists to facilitate the random and periodic verification by the bureau of compliance with IC 9-25.

Sec. 5. The bureau shall adopt rules under IC 4-22-2 to implement this chapter. Rules adopted under this section must do the following:

(1) Establish the method of random selection of names of previously uninsured motorists from the registry.

(2) Establish the methods by which the bureau may request evidence of financial responsibility from a previously uninsured motorist whose name was randomly selected from

the registry.

(3) Establish the methods by which a previously uninsured motorist may respond to the bureau's request for evidence of financial responsibility.

(4) Establish a schedule for the entry, updating, and timely removal of names on or from the registry.

Sec. 6. The failure by a previously uninsured motorist to respond to the bureau's request for verification of financial responsibility under this chapter constitutes prima facie evidence of operating a motor vehicle without financial responsibility in violation of IC 9-25.

Sec. 7. (a) The bureau shall remove the name of a previously uninsured motorist from the registry not more than five (5) years after the date on which the judgment or conviction for which the motorist's name is maintained on the registry was entered against the motorist.

(b) If a previously uninsured motorist is convicted of a second or subsequent offense under IC 9-25, the bureau shall remove the motorist's name from the registry not more than five (5) years after the date on which the second or subsequent conviction is entered.

P.L.78-2008

[H.1169. Approved March 14, 2008.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 16-41-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. The state department may adopt rules concerning:**

(1) sanitation requirements;

(2) requirements for education on sanitation; and

(3) any other health concerns;

associated with threading (as defined in IC 25-8-2-19).

SECTION 2. IC 25-8-2-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.6. "Beauty culture professional" refers to the following:**

(1) A cosmetologist licensed under IC 25-8-9.

(2) An electrologist licensed under IC 25-8-10.

(3) A manicurist licensed under IC 25-8-11.

(4) An esthetician licensed under IC 25-8-12.5.

(5) An instructor licensed under IC 25-8-6.

SECTION 3. IC 25-8-2-5, AS AMENDED BY P.L.157-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) "Cosmetology" means performing any of the following acts on the head, face, neck, shoulders, torso, arms, hands, legs, or feet of a person:

(1) Cutting, trimming, styling, arranging, dressing, curling, waving, permanent waving, cleansing, bleaching, tinting, coloring, or similarly treating hair.

(2) Applying oils, creams, antiseptics, clays, lotions, or other preparations to massage, cleanse, stimulate, manipulate, exercise, or beautify.

(3) Arching eyebrows.

(4) Using depilatories.

(5) Manicuring and pedicuring.

(b) "Cosmetology" does not include performing any of the acts described in subsection (a):

(1) in treating illness or disease;

(2) as a student in a cosmetology school that complies with the notice requirements set forth in IC 25-8-5-6;

(3) in performing shampooing operations; or

(4) without compensation.

(c) "Cosmetology" does not include performing the act of threading.

SECTION 4. IC 25-8-2-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.5. (a) "Esthetician"

means a person who engages solely in one (1) or more of the following practices:

(1) Giving facials, applying makeup, and giving skin care.

(2) Beautifying, massaging, or cleaning the body with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Removing superfluous hair from the body by the use of depilatories, waxing, or tweezers.

(b) The term does not include performing any of the acts described in subsection (a):

(1) in treating an illness or a disease;

(2) as a student in a cosmetology school that complies with the notice requirements under IC 25-8-5-6;

(3) without compensation; or

(4) incident to the retail sale of cosmetics.

(c) The term does not include a person who:

(1) engages in threading; and

(2) does not engage in one (1) or more of the practices described in subsection (a).

SECTION 5. IC 25-8-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. "Threading" refers to:**

(1) a technique that results in the removal of superfluous hair from the body by twisting thread around unwanted hair and pulling it from the skin; and

(2) the incidental trimming of eyebrow hair.

SECTION 6. IC 25-8-5-4.2, AS ADDED BY P.L.157-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.2. (a) A cosmetology school licensed under this chapter shall require each student for graduation to pass a final examination that tests the student's practical knowledge of the curriculum studied.

(b) The board shall consider an applicant for the ~~cosmetology~~ **beauty culture** professional examination as fulfilling the practical examination requirement established by IC 25-8-4-8(1) after successfully completing the final practical demonstration examination.

(c) A passing score of at least seventy-five percent (75%) is required on the final practical demonstration examination.

(d) The cosmetology school licensed under this chapter shall allow

each student for graduation at least three (3) attempts to pass the final practical demonstration examination.

(e) The board may monitor the administration of the final practical demonstration examination for any of the following purposes:

(1) As a result of a complaint received.

(2) As part of random observations.

(3) To collect data.

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 25-8-2-3.5; IC 25-8-2-5.5.

P.L.79-2008

[H.1185. Approved March 14, 2008.]

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

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

SECTION 1. IC 5-22-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. ~~(a)~~ This chapter applies to **the following:**

(1) A purchase of supplies under this article by any of the following:

~~(1)~~ **(A)** A governmental body.

~~(2)~~ **(B)** A state educational institution.

~~(3)~~ **(C)** An instrumentality of the state that performs essential governmental functions on either a statewide or local basis.

~~(4)~~ **(D)** The state lottery commission created by IC 4-30-3-1.

~~(b)~~ **(2)** ~~This chapter applies to~~ A purchase made under IC 5-17-1.

(3) An offer to conduct an indoor air quality inspection and evaluation program under IC 16-41-37.5.

SECTION 2. IC 5-22-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this

chapter, "adjusted offer" means the offer price of an offeror for:

(1) preferred supplies; **or**

(2) conducting an indoor air quality inspection and evaluation program under IC 16-41-37.5;

as determined under section 10 of this chapter.

SECTION 3. IC 5-22-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "price preference percentage" means the percentage preference provided by this chapter for **either of the following:**

(1) A specified kind or item of supplies.

(2) An offer to conduct an indoor air quality inspection and evaluation program under IC 16-41-37.5.

SECTION 4. IC 5-22-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a)** An offeror who wants to claim a preference provided under this chapter for a given supply item must indicate in the offer what supply item in the offer is a preferred supply.

(b) An offeror who wants to claim a preference provided under this chapter to conduct an indoor air quality inspection and evaluation program under IC 16-41-37.5 must indicate in the offer that the indoor air quality inspection and evaluation program is subject to a price preference.

SECTION 5. IC 5-22-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) This section does not apply to an absolute preference.

(b) If an offeror offers a preferred supply for a given supply item, the purchasing agent shall compute an adjusted offer for that item according to the following formula:

STEP ONE: Determine the price preference percentage for the supply item under this chapter.

STEP TWO: Multiply the offeror's offer for the supply item by the percentage determined under STEP ONE.

STEP THREE: Subtract the number determined under STEP TWO from the offeror's offer for the supply item.

(c) If an offeror offers to conduct an indoor air quality inspection and evaluation program under IC 16-41-37.5, the purchasing agent shall compute an adjusted offer to conduct that indoor air quality inspection and evaluation program according to

the following formula:

STEP ONE: Determine the price preference percentage for the indoor air quality inspection and evaluation program eligible to an offeror under section 20.7 of this chapter.

STEP TWO: Multiply the offeror's offer for the indoor air quality inspection and evaluation program by the percentage determined under STEP ONE.

STEP THREE: Subtract the number determined under STEP TWO from the offeror's offer to conduct the indoor air quality inspection and evaluation program.

SECTION 6. IC 5-22-15-20.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20.7. (a) As used in this section, "Indiana business" has the meaning set forth in section 20.5 of this chapter.**

(b) There is a price preference of ten percent (10%) for an Indiana business that submits an offer to conduct an indoor air quality inspection and evaluation program under IC 16-41-37.5.

SECTION 7. IC 16-41-37.5-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.3. As used in this chapter, "nonpublic school" has the meaning set forth in IC 20-18-2-12.**

SECTION 8. IC 16-41-37.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15(1).**

SECTION 9. IC 16-41-37.5-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.3. As used in this chapter, "state agency" has the meaning set forth in IC 4-13-1-1(b).**

SECTION 10. IC 16-41-37.5-2, AS ADDED BY P.L.1-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The state department may adopt rules under IC 4-22-2 to establish an indoor air quality ~~in schools~~ inspection and evaluation program to assist schools **and state agencies** in developing plans to improve indoor air quality.

(b) The state department shall:

(1) inspect a school **or state agency** if the state department

receives a complaint about the quality of air in the school **or state agency;**

(2) report the results of the inspection to:

(A) the person who complained about the quality of air; ~~in the school;~~

(B) the school's principal **or the state agency head;**

(C) the superintendent of the school corporation, if the school is part of a school corporation;

(D) the Indiana state board of education, if the school is a public school or an accredited nonpublic school; ~~and~~

(E) the Indiana department of administration, if the inspected entity is a state agency; and

~~(E)~~ **(F)** the appropriate local or county board of health; and

(3) assist the school **or state agency** in developing a reasonable plan to improve air quality conditions found in the inspection.

SECTION 11. IC 16-41-37.5-3, AS ADDED BY P.L.1-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The ~~school~~ air quality panel is established to assist the state department in carrying out this chapter.

(b) The panel consists of the following members:

(1) A representative of the state department, appointed by the commissioner of the state department.

(2) A representative of the department of education, appointed by the state superintendent of public instruction.

(3) A representative of the Indiana department of administration, appointed by the commissioner of the Indiana department of administration.

~~(3)~~ **(4)** A member of the governing body of a school corporation, appointed by the state superintendent of public instruction.

~~(4)~~ **(5)** A teacher licensed under IC 20-28-4 or IC 20-28-5, appointed by the governor.

~~(5)~~ **(6)** A representative of a statewide parent organization, appointed by the state superintendent of public instruction.

~~(6)~~ **(7)** A physician who has experience in indoor air quality issues, appointed by the commissioner of the state department.

~~(7)~~ **(8)** An individual with training and experience in occupational safety and health, appointed by the commissioner of the department of labor.

~~(8)~~ **(9)** A mechanical engineer with experience in building ventilation system design, appointed by the governor.

~~(9)~~ **(10)** A building contractor with experience in air flow systems who is a member of a national association that specializes in air flow systems, appointed by the governor.

~~(10)~~ **(11)** A member of a labor organization whose members install, service, evaluate, and balance heating, ventilation, and air conditioning equipment, appointed by the governor.

~~(11)~~ **(12)** An individual with experience in the cleaning and maintenance of commercial facilities, appointed by the governor.

(c) The chairperson of the panel shall be the representative of the state department.

(d) The panel shall convene at the discretion of the chairperson.

(e) The state department shall provide administrative support for the panel.

(f) The panel shall:

(1) identify and make available to schools **and state agencies** best operating practices for indoor air quality; ~~in schools;~~ and

(2) assist the state department in developing plans to improve air quality conditions found in inspections under section 2 of this chapter.

(g) The state department shall prepare and make available to the public an annual report describing the panel's actions.

SECTION 12. IC 16-41-37.5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. (a) An individual conducting an indoor air quality test under this chapter must be:**

(1) a professional engineer (as defined in IC 25-31-1-2);

(2) an industrial hygienist; or

(3) a supervisor or technician certified by a national organization that:

(A) writes and adheres to standards for:

(i) testing, adjusting, and balancing of heating, ventilation, and air conditioning equipment or exhaust systems; and

(ii) indoor air quality testing procedures and requirements; and

(B) certifies supervisors and technicians to perform:

(i) testing, adjusting, and balancing of heating, ventilation, and air conditioning equipment or exhaust systems; and

(ii) indoor air quality testing procedures and requirements.

(b) The report of a test conducted under this chapter must be certified by the person conducting the test. If the person uses a professional seal on documents, the certification must include the person's seal.

P.L.80-2008

[H.1271. Approved March 14, 2008.]

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

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

SECTION 1. IC 35-41-1-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. "Credit restricted felon" means a person who has been convicted of at least one (1) of the following offenses:**

(1) Child molesting involving sexual intercourse or deviate sexual conduct (IC 35-42-4-3(a)), if:

(A) the offense is committed by a person at least twenty-one (21) years of age; and

(B) the victim is less than twelve (12) years of age.

(2) Child molesting (IC 35-42-4-3) resulting in serious bodily injury or death.

(3) Murder (IC 35-42-1-1), if:

(A) the person killed the victim while committing or attempting to commit child molesting (IC 35-42-4-3);

(B) the victim was the victim of a sex crime under

IC 35-42-4 for which the person was convicted; or

(C) the victim of the murder was listed by the state or known by the person to be a witness against the person in a prosecution for a sex crime under IC 35-42-4 and the person committed the murder with the intent to prevent the person from testifying.

SECTION 2. IC 35-50-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A person assigned to Class I earns one (1) day of credit time for each day ~~he~~ **the person** is imprisoned for a crime or confined awaiting trial or sentencing.

(b) A person assigned to Class II earns one (1) day of credit time for every two (2) days ~~he~~ **the person** is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class III earns no credit time.

(d) A person assigned to Class IV earns one (1) day of credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

SECTION 3. IC 35-50-6-3.3, AS AMENDED BY P.L.234-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

(1) is in credit Class I;

(2) has demonstrated a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-20-6, if the person has not previously obtained a high school diploma.

(B) A high school diploma, **if the person has not previously obtained a general educational development (GED) diploma.**

(C) An associate's degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)).

(D) A bachelor's degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)).

(b) In addition to any credit time that a person earns under

subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

(1) is in credit Class I;

(2) demonstrates a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-20-6.

(2) One (1) year for graduation from high school.

(3) One (1) year for completion of an associate's degree.

(4) Two (2) years for completion of a bachelor's degree.

(5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more career and technical education programs approved by the department of correction.

(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

(7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as

determined by the department of correction, for the completion of one (1) or more career and technical education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more career and technical education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.

(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(h) Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:

(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or

(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2).

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

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

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

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Sexual misconduct with a minor as a Class A felony, Class B felony, or Class C felony (IC 35-42-4-9).

(I) Incest (IC 35-46-1-3).

(J) Sexual battery (IC 35-42-4-8).

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) four (4) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(j) The amount of credit time earned under this section is reduced to the extent that application of the credit time would otherwise result in:

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program; in less than forty-five (45) days after the person earns the credit time.

(k) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

(l) A person may not earn credit time:

(1) for a general educational development (GED) diploma if the person has previously earned a high school diploma; or

(2) for a high school diploma if the person has previously earned a general educational development (GED) diploma.

SECTION 4. IC 35-50-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A person **who is not a credit restricted felon and who is** imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class I.

(b) A person who is a credit restricted felon and who is imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class IV. A credit restricted felon may not be assigned to Class I or Class II.

~~(b)~~ **(c)** A person **who is not assigned to Class IV** may be reassigned to Class II or Class III if ~~he~~ **the person** violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which ~~he~~ **the person** is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, ~~he~~ **the person** must be granted a hearing to determine ~~his~~ **the person's** guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive ~~his~~ **the** right to the hearing.

(d) A person who is assigned to Class IV may be reassigned to Class III if the person violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which the person is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to Class III, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

~~(c)~~ **(e)** In connection with the hearing granted under subsection ~~(b),~~ **(c) or (d),** the person is entitled to:

(1) have not less than twenty-four (24) hours advance written notice of the date, time, and place of the hearing, and of the alleged misconduct and the rule the misconduct is alleged to have violated;

(2) have reasonable time to prepare for the hearing;

(3) have an impartial decisionmaker;

(4) appear and speak in ~~his~~ **the person's** own behalf;

(5) call witnesses and present evidence;

(6) confront and cross-examine each witness, unless the hearing authority finds that to do so would subject a witness to a substantial risk of harm;

(7) have the assistance of a lay advocate (the department may require that the advocate be an employee of, or a fellow prisoner in, the same facility or program);

(8) have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;

(9) have immunity if ~~his~~ **the person's** testimony or any evidence derived from ~~his~~ **the person's** testimony is used in any criminal

proceedings; and

(10) have ~~his~~ **the person's** record expunged of any reference to the charge if ~~he~~ **the person** is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing.

~~(d)~~ **(f)** A person may be reassigned from Class III to Class I, ~~or~~ Class II, **or Class IV,** or from Class II to Class I. A person's assignment to Class III or Class II shall be reviewed at least once every six (6) months to determine if ~~he~~ **the person** should be reassigned to a higher credit time class. **A credit restricted felon may not be reassigned to Class I or Class II.**

SECTION 5. IC 35-50-6-5, AS AMENDED BY P.L.173-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a community transition program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.

(6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, ~~he~~ **the person** may also be reassigned to Class II **(if the person is not**

a credit restricted felon) or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in ~~section 4(c)~~ **section 4(e)** of this chapter. The person may waive the person's right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 6. [EFFECTIVE JULY 1, 2008] **IC 35-41-1-5.5, as added by this act, and IC 35-50-6-3, IC 35-50-6-4, and IC 35-50-6-5, all as amended by this act, apply only to persons convicted after June 30, 2008.**

P.L.81-2008
[S.10. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-8-5-2, AS AMENDED BY P.L.173-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

(1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.

(2) Information relating to a pending investigation of alleged criminal activity or other misconduct.

(3) Information which, if disclosed, might result in physical harm

to that person or other persons.

(4) Sources of information obtained only upon a promise of confidentiality.

(5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

(1) upon the order of a court;

(2) to employees of the department who need the information in the performance of their lawful duties;

(3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;

(4) to the governor or the governor's designee;

(5) for research purposes in accord with IC 4-1-6-8.6(b);

(6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; ~~or~~

(7) to a person who is or may be the victim of inmate fraud (IC 35-43-5-20) if the commissioner determines that the interest in disclosure overrides the interest to be served by nondisclosure; or

~~(7)~~ **(8)** if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

(1) A provider of sex offender management, treatment, or programming.

(2) A provider of mental health services.

(3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

(e) This subsection does not prohibit the department from sharing

information available on the Indiana sex offender registry with another person.

SECTION 2. IC 11-11-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

"Contraband" means property the possession of which is in violation of an Indiana or federal statute.

"Prohibited property" means property other than contraband that the department does not permit a confined person to possess. **The term includes money in a confined person's account that was derived from inmate fraud (IC 35-43-5-20).**

SECTION 3. IC 11-11-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) When the department seizes property, it shall give the affected person written notice of the seizure. This notice must include the date of the seizure, the property seized, the name of the person who seized the property, the reason for the seizure, and the fact that the department's action may be challenged through the grievance procedure.

(b) When the department seizes property of a confined person that it later determines is neither contraband nor prohibited property, it shall return the property to that person or make such other reasonable disposition as directed by that person.

(c) Except as provided in subsection (d) **or section 6 of this chapter,** when the department seizes prohibited property, it shall forward the property to a person or address designated by the confined person or make any other reasonable disposition.

(d) **Except as provided in section 6 of this chapter,** money seized as prohibited property shall be deposited in the inmate recreation fund of that institution established under IC 4-24-6-6.

SECTION 4. IC 11-11-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. (a) This section applies if the department has reasonable suspicion that money in a confined person's account was derived from the commission of inmate fraud (IC 35-43-5-20).**

(b) If the department has reasonable suspicion that money in a confined person's account was derived from the commission of inmate fraud, the department may freeze all or a part of the confined person's account for not more than one hundred eighty

(180) days while the department conducts an investigation to determine whether money in the confined person's account derives from inmate fraud. If the department freezes the account of a confined person under this subsection, the department shall notify the confined person in writing.

(c) If the department's investigation reveals that no money in the confined person's account was derived from inmate fraud, the department shall unfreeze the account at the conclusion of the investigation.

(d) If the department's investigation reveals that money in the confined person's account may have been derived from the commission of inmate fraud, the department shall notify the prosecuting attorney of the results of the department's investigation.

(e) If the prosecuting attorney charges the confined person with inmate fraud, the department shall freeze the confined person's account until the case reaches final judgment.

(f) If the prosecuting attorney does not charge the confined person with inmate fraud, or if the confined person is acquitted of the charge of inmate fraud, the department shall unfreeze the confined person's account.

(g) If the confined person is convicted of inmate fraud, the department, in consultation with the prosecuting attorney, shall locate the money or property derived from inmate fraud and return it to the rightful owner.

(h) If, ninety (90) days after the date of a confined person's conviction for inmate fraud, the department has located the money or property derived from the commission of inmate fraud but is unable to return the money to the rightful owner, the department shall deposit the money in the violent crime victims compensation fund established by IC 5-2-6.1-40.

SECTION 5. IC 35-43-5-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20. (a) As used in this section, "inmate" means a person who is confined in:**

(1) the custody of:

(A) the department of correction; or

(B) a sheriff;

(2) a county jail; or

(3) a secure juvenile facility.

(b) An inmate who, with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:

(1) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or

(2) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;

commits inmate fraud, a Class C felony.

SECTION 6. [EFFECTIVE JULY 1, 2008] **IC 35-43-5-20, as added by this act, applies only to crimes committed after June 30, 2008.**

P.L.82-2008
[S.28. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-14-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Reduced Ignition Propensity Standards for Cigarettes.

Sec. 0.5. Sections 1 through 28 of this chapter apply beginning July 1, 2009.

Sec. 1. As used in this chapter, "agent" means a person authorized by the department of state revenue to purchase and affix stamps (as defined by IC 6-7-1-9) on packages of cigarettes.

Sec. 2. As used in this chapter, "brand family" has the meaning

set forth in IC 24-3-5.4-1.

Sec. 3. As used in this chapter, "cigarette" has the meaning set forth in IC 6-7-1-2.

Sec. 4. As used in this chapter, "manufacturer" means:

(1) an entity that manufactures or produces cigarettes or causes cigarettes to be manufactured or produced that the manufacturer intends to be sold in Indiana, including cigarettes intended to be sold in the United States through an importer;

(2) a first purchaser that intends to resell in the United States cigarettes that the original manufacturer or maker does not intend to be sold in the United States; or

(3) an entity that becomes a successor of an entity described in subdivision (1) or (2).

Sec. 5. As used in this chapter, "quality control and quality assurance program" means the laboratory procedures implemented to ensure that:

(1) operator bias, systematic and nonsystematic methodological errors, and equipment related problems do not affect the results of the testing; and

(2) the testing repeatability remains within the required repeatability values in section 13(f) of this chapter for all test trials used to certify cigarettes under this chapter.

Sec. 6. As used in this chapter, "repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time.

Sec. 7. As used in this chapter, "retail dealer" means a person, other than a manufacturer or wholesale dealer, that sells cigarettes.

Sec. 8. As used in this chapter, "sale" means any of the following:

(1) Transfer of title or possession, or both.

(2) Exchange or barter, including conditional exchanges or agreements.

(3) Giving cigarettes as samples, prizes, or gifts.

(4) Exchange of cigarettes for consideration other than money.

Sec. 9. As used in this chapter, "sell" means to:

(1) sell; or

(2) offer or agree to sell.

Sec. 10. As used in this chapter, "UPC bar code" means the universal product code or another product identification code that includes:

(1) a unique symbol that consists of a machine readable code; and

(2) numbers that are readable by an individual;

that meets the standards established by GS1 US.

Sec. 11. As used in this chapter, "wholesale dealer" means any of the following:

(1) A person, other than a manufacturer, that sells cigarettes to a retail dealer or other person for purposes of resale.

(2) A person who owns, operates, or maintains a cigarette vending machine in, at, or upon premises owned or occupied by another person.

Sec. 12. Except as provided in section 19 of this chapter, cigarettes may not be sold or offered for sale in Indiana unless the cigarettes:

(1) have been tested according to the test method and meet the performance standard specified in section 13 or 15 of this chapter;

(2) have been certified under section 21 of this chapter; and

(3) have been marked under section 23 of this chapter.

Sec. 13. (a) Testing of cigarettes must be conducted according to the American Society of Testing and Materials (ASTM) standard E2187-04, Standard Test Method for Measuring the Ignition Strength of Cigarettes.

(b) Testing must be conducted on ten (10) layers of filter paper.

(c) Not more than twenty-five percent (25%) of the cigarettes tested in a test trial under this section may exhibit full length burns. Forty (40) replicate tests comprise a complete test trial for each cigarette tested.

(d) The performance standard required by this section may be applied only to a complete test trial.

(e) Written certifications must be based upon testing conducted by a laboratory that has been accredited under standard ISO/IEC 17025 of the International Organization for Standardization (ISO) or other comparable accreditation standard required by the state

fire marshal.

(f) Laboratories conducting testing under this section must implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value may not be greater than nineteen hundredths (0.19).

(g) This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.

(h) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the required performance standard must be conducted according to this section.

Sec. 14. Each cigarette listed in a certification submitted under section 21 of this chapter that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard in section 13 or 15 of this chapter must have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band must be located at least fifteen (15) millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or for nonfiltered cigarettes ten (10) millimeters from the labeled end of the tobacco column.

Sec. 15. (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested by the test method in section 13(a) of this chapter shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard in section 13(c) of this chapter, the manufacturer may use the test method and performance standard to certify the cigarette under section 21 of this chapter.

(b) If the state fire marshal determines that:

(1) another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter; and

(2) the officials in that state responsible for implementing

those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or rule under a legal provision comparable to this section;

the state fire marshal shall authorize that manufacturer to use the alternative test method and performance standard to certify that cigarette for sale in Indiana, unless the state fire marshal demonstrates a reasonable basis for why the alternative test should not be accepted under this chapter. All other applicable requirements of this chapter apply to the manufacturer.

Sec. 16. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years and make copies of these reports available to the state fire marshal and the attorney general upon written request. Any manufacturer that fails to make copies of these reports available within sixty (60) days after receiving a written request is subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day after the sixty (60) days that the manufacturer does not make the copies available.

Sec. 17. The commission may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full length burns exhibited by any tested cigarette when compared to the percentage of full length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in section 13(c) of this chapter.

Sec. 18. (a) Beginning July 1, 2011, every three (3) years the state fire marshal shall review the effectiveness of this chapter and issue a report that includes the state fire marshal's findings and, if appropriate, recommendations for legislation.

(b) The state fire marshal shall transmit a copy of the report required under subsection (a) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 19. The requirements of section 12 of this chapter do not prohibit any of the following:

(1) A wholesale or retail dealer from selling the dealer's

existing inventory of cigarettes on or after July 1, 2009, if the wholesale or retail dealer can establish that state tax stamps (as defined in IC 6-7-1-9) were affixed to the cigarettes before the effective date and if the wholesale or retailer dealer can establish that the inventory was purchased before the effective date in comparable quantity to the inventory purchased during the same period of the prior year.

(2) The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subdivision, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer) for the purpose of evaluating consumer acceptance of the cigarettes, using only the quantity of cigarettes that is reasonably necessary for the assessment.

Sec. 20. Subject to the requirements of this chapter, the state fire marshal shall implement this chapter in a manner to obtain uniformity with the implementation and substance of the New York Fire Safety Standards for Cigarettes (N.Y. Exec. Law Section 156-c).

Sec. 21. (a) Except as provided in subsection (d), each manufacturer shall submit to the state fire marshal a written certification attesting that:

(1) each cigarette listed in the certification has been tested as required under section 13 or 15 of this chapter; and

(2) each cigarette listed in the certification meets the performance standard in section 13(c) or 15 of this chapter.

(b) Each cigarette listed in the certification must include the following information:

(1) Brand, or trade name on the package.

(2) Style, such as light or ultra light.

(3) Length in millimeters.

(4) Circumference in millimeters.

(5) Flavor, such as menthol, if applicable.

(6) Filter or nonfilter.

(7) Package description, such as soft pack or box.

(8) Marking under section 23 of this chapter.

(9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.

(10) The date that the testing occurred.

(c) The certifications must be made available to the attorney general for purposes consistent with this chapter and the department of state revenue and the alcohol and tobacco commission for the purposes of ensuring compliance with this section.

(d) Notwithstanding subsection (a), the state fire marshal may accept as evidence of compliance with this chapter a certification issued to:

(1) the New York State Department of State's Office of Fire Prevention and Control; or

(2) the responsible entity of another state that has:

(A) substantially equivalent certification requirements relating to reduced ignition propensity cigarettes; and

(B) the same test method and performance standard requirements as provided in sections 13 and 15 of this chapter.

(e) Each cigarette listed in a certification submitted under this section must be recertified every three (3) years.

(f) For each brand family listed in a certification submitted under subsection (a) or (d), a manufacturer shall pay a fee to the state fire marshal of eight hundred dollars ($800). The state fire marshal may adjust the fee every three (3) years to ensure that the fee defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter under rules adopted by the fire prevention and building safety commission. However, the fee for each brand family may not exceed one thousand dollars ($1,000).

(g) If a manufacturer has certified a cigarette under this section, and after submitting the certification, makes a change to the cigarette that is likely to alter the cigarette's compliance with the reduced cigarette ignition propensity standards required by this chapter, that cigarette may not be sold or offered for sale in Indiana until the manufacturer retests the cigarette under the testing standards in section 13 or 15 of this chapter and maintains records of that retesting as required by section 16 of this chapter. An altered cigarette that does not meet the performance standard in section 13 or 15 of this chapter may not be sold in Indiana.

Sec. 22. (a) The reduced ignition propensity standards for

cigarettes fund is established. Money in the fund may be used to support processing, testing, enforcement, and oversight activities under this chapter. The fund shall be administered by the state fire marshal.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) The fund consists of:

(1) certification fees collected under section 21 of this chapter; and

(2) grants, gifts, and donations intended for deposit in the fund.

(e) The money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 23. (a) Packages of cigarettes that are certified by a manufacturer under section 21 of this chapter must be marked to indicate compliance with the requirements of section 12 of this chapter. The marking must be in eight (8) point type or larger and consist of:

(1) modification of the product UPC bar code to include a visible mark printed at or around the area of the UPC bar code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC bar code;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed upon the cigarette package or cellophane wrap; or

(3) stamped, engraved, embossed, or printed text that indicates that the cigarettes meet the standards of this chapter.

(b) A manufacturer shall use only one (1) marking and shall apply this marking uniformly for all packages, including packs, cartons, and cases, and brands marketed by that manufacturer.

(c) The manufacturer shall notify the state fire marshal of the marking that is selected.

(d) Before certification of any cigarette, a manufacturer shall submit the manufacturer's proposed marking to the state fire

marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve:

(1) a marking in use and approved for sale in New York under the New York Fire Safety Standards for Cigarettes; or

(2) the letters "FSC," which signifies Fire Standards Compliant, appearing in eight (8) point type or larger and permanently stamped, engraved, embossed, or printed on the package at or near the UPC bar code.

Proposed markings are considered approved if the state fire marshal fails to act within ten (10) business days after receiving a request for approval.

(e) A manufacturer may not modify its approved marking unless the modification has been approved by the state fire marshal under this section.

(f) A manufacturer certifying cigarettes under section 21 of this chapter shall:

(1) provide a copy of the certifications to all wholesale dealers and agents to which the manufacturer sells cigarettes; and

(2) provide sufficient copies of an illustration of the package marking used by the manufacturer under this section for each retail dealer to which the wholesale dealers or agents sell cigarettes.

Wholesale dealers and agents shall provide a copy of the package markings received from the manufacturers to all retail dealers to which the wholesale dealer or agent sells cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state fire marshal, the department of state revenue, the alcohol and tobacco commission, and their employees to inspect markings on the cigarette packaging.

Sec. 24. (a) A manufacturer, a wholesale dealer, an agent, or another person or entity that knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section 12 of this chapter is subject to a civil penalty not to exceed one hundred dollars ($100) for each pack of cigarettes sold or offered for sale. However, the penalty against a person or an entity may not exceed one hundred thousand dollars ($100,000) during any thirty (30) day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes

in violation of section 12 of this chapter is subject to a civil penalty not to exceed one hundred dollars ($100) for each pack of cigarettes sold or offered for sale. However, the penalty against a retail dealer may not exceed twenty-five thousand dollars ($25,000) during any thirty (30) day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification under section 21 of this chapter is subject to a civil penalty of at least seventy-five thousand dollars ($75,000). However, the penalty may not exceed two hundred fifty thousand dollars ($250,000) for each false certification.

(d) A person that violates any other provision of this chapter is subject to a civil penalty for a first offense not to exceed one thousand dollars ($1,000), and for a subsequent offense not to exceed five thousand dollars ($5,000), for each violation.

(e) A cigarette that has been sold or offered for sale that does not comply with the performance standard required by section 13 or 15 of this chapter is subject to forfeiture. Cigarettes forfeited under this section must be destroyed. However, before the destruction of any cigarette forfeited under this section, the holder of the trademark rights in the cigarette brand is allowed to inspect the cigarette.

(f) In addition to any other remedy provided by law, the state fire marshal may file an action in a court of competent jurisdiction for a violation of this chapter, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this chapter or rules adopted under this chapter constitutes a separate civil violation for which the state fire marshal may obtain relief.

(g) A law enforcement officer or representative of the state fire marshal may seize and take possession of any cigarettes that have not been marked in the manner required by section 23 of this chapter. The seized cigarettes must be turned over to the department of state revenue. Cigarettes seized under this section are forfeited to the state and must be destroyed. However, before

the destruction of any cigarette seized under this section, the holder of the trademark rights in the cigarette brand is allowed to inspect the cigarette.

Sec. 25. (a) The:

(1) department of state revenue, in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under IC 6-7; and

(2) alcohol and tobacco commission;

may inspect cigarettes to determine if the cigarettes are marked as required by section 23 of this chapter.

(b) The department of state revenue and the alcohol and tobacco commission shall notify the state fire marshal upon the discovery of cigarettes that are not marked as required.

Sec. 26. To enforce this chapter, the attorney general and the state fire marshal, their authorized representatives, and law enforcement officers may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is required to give the attorney general, the department of state revenue, the alcohol and tobacco commission, the state fire marshal, their authorized representatives, and law enforcement officers the means, facilities, and opportunity for the examinations authorized by this chapter.

Sec. 27. (a) The fire prevention and public safety fund is established. The fund shall be administered by the state fire marshal. Money in the fund may used to support fire safety and prevention programs.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) The fund consists of:

(1) penalties recovered under section 24 of this chapter; and

(2) grants, gifts, and donations intended for deposit in the fund.

(e) The money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 28. Nothing in this chapter prohibits a person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 12 of this chapter if the cigarettes:

(1) are or will be stamped for sale in another state; or

(2) are packaged for sale outside the United States;

and the person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons in Indiana.

Sec. 29. The commission may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 30. A local governmental unit may not adopt an ordinance concerning any subject regulated by this chapter.

Sec. 31. This chapter may not be construed to supersede or preempt applicable federal laws or regulations concerning reduced ignition propensity standards for cigarettes.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) IC 22-14-7-21(d), as added by this act, applies to certifications issued not more than three (3) years before the date on which this act takes effect.**

(b) This SECTION expires July 1, 2011.

SECTION 3. **An emergency is declared for this act.**

P.L.83-2008

[S.81. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 9-13-2-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2008]: **Sec. 1.2. "Accident response service fee", for purposes of IC 9-29-11.5, has the meaning set forth in IC 9-29-11.5-1.**

SECTION 2. IC 9-13-2-94.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 94.2. "Local law enforcement agency", for purposes of IC 9-29-11.5, has the meaning set forth in IC 9-29-11.5-2.**

SECTION 3. IC 9-17-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** A person applying for a certificate of title for a vehicle must submit an application on a form furnished by the bureau that contains the following information:

(1) A full description of the vehicle.

(2) A statement of the person's title and of any lien or encumbrance on the vehicle.

(3) Other information the bureau requires.

(b) This subsection applies only to an individual who receives an interest in a vehicle under IC 9-17-3-9. To obtain a certificate of title for the vehicle, the individual must do the following:

(1) Surrender the certificate of title designating the individual as a transfer on death beneficiary.

(2) Submit proof of the transferor's death.

(3) Submit an application for a certificate of title on a form furnished by the bureau that meets the requirements of subsection (a).

SECTION 4. IC 9-17-3-3, AS AMENDED BY SEA 307-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is ~~otherwise~~ transferred **in any manner other than by a transfer on death conveyance under section 9 of this chapter,** the person who holds the certificate of title must do the following:

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

(2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments

for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

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

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

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

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

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

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

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

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

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

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

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

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

Payment shall be made to the secretary of state and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title

and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

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

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

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

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

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

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

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

SECTION 5. IC 9-17-3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2008]: **Sec. 9. (a) An individual whose certificate of title for a vehicle indicates that the individual is the sole owner of the vehicle may create an interest in the vehicle that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the vehicle to one (1) or more named individuals as transfer on death beneficiaries.**

(b) Subject to subsection (e), an interest in a vehicle transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary;

to be effective.

(e) Upon the death of an individual conveying an interest in a vehicle in a certificate of title obtained under this section, the interest in the vehicle is transferred to each beneficiary who:

(1) is named in the certificate; and

(2) survives the transferor.

(f) A transfer of an interest in a vehicle under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

SECTION 6. IC 9-18-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Upon the transfer of ownership of an antique motor vehicle registered under this chapter:

(1) the antique motor vehicle's registration is void; and

(2) the license plates shall be removed from the antique motor vehicle by the person who owns the antique motor vehicle.

(b) A person who is not the original registrant of an antique motor vehicle may not possess the license plates for the antique motor vehicle.

(c) A person who originally owns the license plates for an antique

motor vehicle may, for the remainder of the year in which the ownership of the vehicle is transferred, register another antique motor vehicle under the same registration.

(d) **This subsection does not apply to an antique motor vehicle acquired by a conveyance subject to IC 9-17-3-9.** Upon the transfer and sale of an antique motor vehicle registered under this chapter, the person who acquires ownership of the antique motor vehicle shall, not more than thirty-one (31) days after the date of acquiring ownership or before using the motor vehicle upon the highways, make an application with the bureau for registration of the antique motor vehicle under this chapter.

(e) This subsection applies only to an antique motor vehicle acquired by a conveyance subject to IC 9-17-3-9. Upon the transfer and sale of an antique motor vehicle registered under this chapter, the person who acquires ownership of the antique motor vehicle shall, not more than sixty (60) days after the date of acquiring ownership or before using the motor vehicle upon the highways, make an application with the bureau for registration of the antique motor vehicle under this chapter.

SECTION 7. IC 9-29-4-4, AS AMENDED BY P.L.219-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The fee for a delinquent title is ten dollars ($10). Except as provided in subsections (b), (c), ~~and~~ (d), **and (e),** the bureau shall collect this fee when a purchaser or transferee fails to apply for an original certificate of title or a transfer of title, by assignment, within thirty-one (31) days after the vehicle is purchased or otherwise acquired. This fee is in addition to all other fees imposed for the issuance of a certificate of title.

(b) A dealer who titles a vehicle in the dealership's name for purposes of putting the vehicle in rental, leasing, or demonstrating service is not required to pay a delinquent title fee under this section, but shall pay the following for each title:

(1) The title fee under section 3 of this chapter.

(2) A service charge under IC 9-29-3.

(c) A dealer who titles a vehicle in the dealership's name for the purpose of selling the vehicle shall pay the following:

(1) The title fee under section 3 of this chapter.

(2) A service charge under IC 9-29-3.

(d) IC 9-17-2-1.5 applies to the purchase or acquisition of an off-road vehicle that is less than five (5) model years old.

(e) An individual who acquires a vehicle by a conveyance subject to IC 9-17-3-9 is not required to pay a delinquent title fee under this section unless the individual fails to apply for a certificate of title within sixty (60) days after the vehicle is acquired.

SECTION 8. IC 9-29-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 11.5. Accident Response Service Fees

Sec. 1. As used in this chapter, "accident response service fee" means a fee imposed for any of the following:

(1) The response by a local law enforcement agency to a motor vehicle accident.

(2) The investigation by a local law enforcement agency of a motor vehicle accident.

Sec. 2. As used in this chapter, "local law enforcement agency" means a political subdivision's department or agency whose principal function is the apprehension of criminal offenders.

Sec. 3. A political subdivision or a local law enforcement agency of a political subdivision may not impose or collect, or enter into a contract for the collection of, an accident response service fee on or from:

(1) the driver of a motor vehicle; or

(2) any other person;

involved in a motor vehicle accident.

SECTION 9. IC 9-31-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **Except as provided in section 30 of this chapter,** a person acquiring a watercraft from the owner of the watercraft, whether the owner is a manufacturer, importer, dealer, or otherwise, does not acquire any right, title, claim, or interest in or to the watercraft until the person has obtained a certificate of title to the watercraft. A waiver or estoppel does not operate in favor of the person against another person having possession of the certificate of title, or manufacturer's or importer's certificate for the watercraft, for a valuable consideration.

(b) A court may recognize the right, title, claim, or interest of a

person in or to a watercraft sold, disposed of, mortgaged, or encumbered only if the right, title, claim, or interest:

(1) is evidenced by:

(A) a certificate of title;

(B) a certificate of title designating a transfer on death beneficiary to the watercraft signed under section 30 of this chapter; or

(C) a manufacturer's or importer's certificate issued under this chapter; or

(2) is evidenced by admission in the pleadings or stipulation of the parties.

SECTION 10. IC 9-31-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. **(a) Except as provided in subsection (b),** an application for a certificate of title shall be filed with the bureau within thirty-one (31) days after the date of purchase or transfer. The application must be accompanied by the fee prescribed in IC 9-29-15-1.

(b) This subsection applies only to a watercraft acquired by a conveyance subject to section 30 of this chapter. An application for a certificate of title shall be filed with the bureau within sixty (60) days after the date of the transfer under section 30 of this chapter. The application must be accompanied by the fee prescribed in IC 9-29-15-1.

SECTION 11. IC 9-31-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) If the transfer of ownership of a watercraft is by operation of law (such as upon inheritance, devise, bequest, **transfer on death designation in accordance with section 30 of this chapter,** order in bankruptcy, insolvency, replevin, or execution of sale), if a watercraft is sold to satisfy a storage or repair charge, or if repossession is had upon default in performance of the terms of a security agreement, the bureau shall issue to the applicant a certificate of title to the watercraft upon the following:

(1) **Compliance with any of the following:**

(A) The surrender of the prior certificate of title. ~~or~~

(B) The surrender of the manufacturer's or importer's certificate. ~~or, when that is not possible, upon~~

(C) Both of the following:

(i) The surrender of a certificate of title designating a transfer on death beneficiary.

(ii) The submission of proof of the death of the transferor.

(D) The presentation of satisfactory proof to the bureau of ownership and a right of possession to the watercraft.

(2) Payment of the fee prescribed under IC 9-29-15-1.

(3) Presentation of an application for certificate of title.

(b) A certification by the person or agent of the person to whom possession of the watercraft passed setting forth the facts entitling the person to possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession.

(c) If an applicant cannot produce proof of ownership, the applicant may apply to the bureau and submit evidence of ownership. If the bureau finds the evidence sufficient, the bureau may issue a certificate of title. If, from the records of the department, a lien appears to be on the watercraft, the certificate of title must contain a statement of the lien, unless the application is accompanied by proper evidence of the extinction of the lien.

SECTION 12. IC 9-31-2-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. (a) An individual whose certificate of title for a watercraft indicates that the individual is the sole owner of the watercraft may create an interest in the watercraft that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the watercraft to one (1) or more named individuals as transfer on death beneficiaries.**

(b) Subject to subsection (e), an interest in a watercraft transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary;

to be effective.

(e) Upon the death of an individual conveying an interest in a watercraft in a certificate of title obtained under this section, the interest in the watercraft is transferred to each beneficiary who:

(1) is named in the certificate; and

(2) survives the transferor.

(f) A transfer of an interest in a watercraft under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

SECTION 13. IC 36-2-13-17.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17.4. A sheriff or an employee of a jail may not charge an individual a fee for the individual to be incarcerated or held in a jail unless the individual has been convicted of a crime for which the individual was incarcerated or held in the jail.**

P.L.84-2008

[S.134. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 4-21.5-7-5, AS AMENDED BY P.L.99-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **Except as provided in IC 14-10-2-2.5,** an

environmental law judge is the ultimate authority under this article for reviews of agency actions of the department of environmental management, actions of a board described in IC 13-14-9-1, and challenges to rulemaking actions by a board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.

SECTION 2. IC 4-21.5-7-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. A proceeding that is subject to the jurisdiction of both the office and the natural resources commission's division of hearings established under IC 14-10-2-2 may be consolidated under IC 14-10-2-2.5.**

SECTION 3. IC 14-10-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) A person who is the party in a hearing under this title or IC 4-21.5-7 may move to have the:**

(1) environmental law judge appointed under IC 4-21.5-7; or

(2) administrative law judge appointed under section 2 of this chapter;

consolidate multiple proceedings that are subject to the jurisdiction of both the office of environmental adjudication and the division of hearings.

(b) The environmental law judge or the administrative law judge shall grant the motion made under subsection (a) if the following findings are made:

(1) The proceedings include the following:

(A) Common questions of law or fact.

(B) At least one (1) person, other than the department or the department of environmental management, who is a party to all the proceedings.

(C) Issues of water quality, water quantity, or both.

(2) Consolidation may support administrative efficiency.

(c) If a motion to consolidate proceedings has been granted under subsection (b), the hearing must be conducted by a panel that consists of at least one (1) environmental law judge and one (1) administrative law judge. The panel is the ultimate authority for matters authorized under IC 4-21.5-7-5 and this title. Any party, including the department and the department of environmental management, may petition an appropriate court for judicial review

of a final determination of the panel.

(d) The office of environmental adjudication and the division of hearings shall adopt joint rules to implement this section.

SECTION 4. IC 14-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Except as provided in **section 2.5 of this chapter and** IC 14-34-2-2, the commission is the ultimate authority of the department under IC 4-21.5.

SECTION 5. IC 14-34-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The commission shall appoint the following:

(1) An administrative law judge to conduct proceedings under IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.

(2) A hearing officer to conduct proceedings under IC 4-22-2.

(b) An administrative law judge is the ultimate authority for the department for any administrative review proceeding under this article, except for the following:

(1) Proceedings concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13.

(2) Proceedings for suspension or revocation of a permit under IC 14-34-15-7.

(3) Proceedings consolidated with the office of environmental adjudication under IC 14-10-2-2.5.

(c) An order made by an administrative law judge granting or denying temporary relief from a decision of the director is a final order of the department.

(d) Judicial review of a final order made by an administrative law judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.

P.L.85-2008
[S.176. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) "Commission", except as provided in subsections (b) through ~~(p),~~ **(r),** refers to the natural resources commission.

(b) "Commission", for purposes of IC 14-13-1, has the meaning set forth in IC 14-13-1-1.

(c) "Commission", for purposes of IC 14-13-2, has the meaning set forth in IC 14-13-2-2.

(d) "Commission", for purposes of IC 14-13-3, has the meaning set forth in IC 14-13-3-1.

(e) "Commission", for purposes of IC 14-13-4, has the meaning set forth in IC 14-13-4-1.

(f) "Commission", for purposes of IC 14-13-5, has the meaning set forth in IC 14-13-5-1.

(g) "Commission", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-2.

(h) "Commission", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-3.

(i) "Commission", for purposes of IC 14-20-4, has the meaning set forth in IC 14-20-4-1.

(j) "Commission", for purposes of IC 14-20-11, has the meaning set forth in IC 14-20-11-1.

(k) "Commission", for purposes of IC 14-21-4, has the meaning set forth in IC 14-21-4-1.

~~(k)~~ **(l)** "Commission", for purposes of IC 14-25-11, has the meaning set forth in IC 14-25-11-1.

~~(l)~~ **(m)** "Commission", for purposes of IC 14-28-4, has the meaning set forth in IC 14-28-4-1.

~~(m)~~ **(n)** "Commission", for purposes of IC 14-30-1, has the meaning set forth in IC 14-30-1-2.

~~(n)~~ **(o)** "Commission", for purposes of IC 14-30-2, has the meaning set forth in IC 14-30-2-2.

~~(o)~~ **(p)** "Commission", for purposes of IC 14-30-3, has the meaning set forth in IC 14-30-3-2.

~~(p)~~ **(q)** "Commission", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-2.

~~(q)~~ **(r)** "Commission", for purposes of IC 14-33-20, has the meaning set forth in IC 14-33-20-2.

SECTION 2. IC 14-8-2-77, AS AMENDED BY SEA 190-2008, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 77. "Division" has the following meaning:

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

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

(3) For purposes of ~~IC 14-21-1,~~ **IC 14-21,** the ~~meaning set forth in IC 14-21-1-6.~~ **division of historic preservation and archeology.**

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

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

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

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

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

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

SECTION 3. IC 14-8-2-107, AS AMENDED BY P.L.1-2006, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in

IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

(10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.

(11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.

(12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

(13) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

(14) For purposes of IC 14-21-4, the meaning set forth in IC 14-21-4-10.

~~(14)~~ **(15)** For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

~~(15)~~ **(16)** For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

~~(16)~~ **(17)** For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

~~(17)~~ **(18)** For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

~~(18)~~ **(19)** For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.

~~(19)~~ **(20)** For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.

~~(20)~~ **(21)** For purposes of IC 14-24-4.5, the meaning set forth in

IC 14-24-4.5-2(5).

~~(21)~~ **(22)** For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.

~~(22)~~ **(23)** For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.

~~(23)~~ **(24)** For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.

~~(24)~~ **(25)** For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.

~~(25)~~ **(26)** For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.

~~(26)~~ **(27)** For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.

~~(27)~~ **(28)** For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

~~(28)~~ **(29)** For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-1.

~~(29)~~ **(30)** For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

~~(30)~~ **(31)** For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.

~~(31)~~ **(32)** For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

~~(32)~~ **(33)** For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

~~(33)~~ **(34)** For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 4. IC 14-8-2-123.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 123.5. "Historic courthouse", for purposes of IC 14-21-4, has the meaning set forth in IC 14-21-4-2.**

SECTION 5. IC 14-21-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 4. Courthouse Preservation Advisory Commission

Sec. 1. As used in this chapter, "commission" refers to the courthouse preservation advisory commission established by section 3 of this chapter.

Sec. 2. As used in this chapter, "historic courthouse" refers to a county courthouse listed in or eligible for the National Register of Historic Places or the Indiana Register of Historic Sites and Structures.

Sec. 3. The courthouse preservation advisory commission is established.

Sec. 4. (a) The commission consists of the following individuals:

(1) One (1) licensed architect with experience in building preservation.

(2) One (1) registered professional engineer with experience in building preservation.

(3) One (1) architectural historian.

(4) One (1) county commissioner.

(5) One (1) representative of a local community foundation.

(6) One (1) representative of the Association of Indiana Counties.

(7) One (1) representative of the Indiana Association of County Commissioners.

(8) One (1) judge of a county, superior, or circuit court.

(9) The chief justice of the Indiana supreme court or the chief justice's designee.

(10) The director of the division or the director's designee.

(11) The president of the Historic Landmarks Foundation of Indiana or the president's designee.

(12) The director of the office of community and rural affairs or the director's designee.

(b) Members appointed under subsection (a)(1) through (a)(7) shall be appointed by the governor.

(c) The member appointed under subsection (a)(8) shall be appointed by the chief justice of the supreme court.

Sec. 5. (a) A member appointed under section 4(a)(1) through 4(a)(8) of this chapter serve for a term of three (3) years beginning July 1 the year of their appointment. However, a member appointed to fill a vacancy on the commission shall serve for the remainder of the unexpired term.

(b) Each appointed member of the commission serves at the pleasure of the appointing authority.

(c) The governor shall appoint a member of the commission to serve as the commission's chairperson.

Sec. 6. A member of the commission is not entitled to a minimum salary per diem provided by IC 4-10-11-2.1(b). However, subject to the availability of money in the courthouse preservation fund, a member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 7. (a) The division shall provide administrative support for meetings of the commission.

(b) Expenses incurred under this chapter shall be paid from money in the courthouse preservation fund.

Sec. 8. The affirmative votes of at least seven (7) members of the commission are required for the commission to take any official action, including issuing reports.

Sec. 9. The commission shall do the following:

(1) Upon request by county officials, travel to county courthouses to assess potential courthouse rehabilitation projects. The assessments may include providing an appraisal of the condition of the courthouse and rehabilitation cost estimates.

(2) Provide technical assistance for courthouse rehabilitation projects to encourage proper preservation practices.

(3) Upon request by county officials, review and provide recommendations on architectural plans for courthouse related projects.

(4) Upon request by county officials, review and provide recommendations on engineering plans for courthouse related projects.

(5) Provide county officials with information concerning funding sources for courthouse preservation projects.

(6) Make an assessment concerning the importance of preserving historic courthouses to the history and identity of county seats and counties.

(7) Make an assessment of the importance of preserving historic courthouses to the economic revitalization of county seats and counties.

(8) Investigate the need for rehabilitation, restoration, and maintenance of historic courthouses.

(9) Study the condition of historic courthouses.

(10) Study the needs of county officials in planning for the successful restoration, rehabilitation, and maintenance of historic courthouses.

(11) Meet at least once each quarter.

Sec. 10. (a) As used in this section, "fund" refers to the courthouse preservation fund established by subsection (b).

(b) The courthouse preservation fund is established to provide matching grants for courthouse rehabilitation projects and pay for the administration of this chapter. The division shall administer the fund.

(c) The fund consists of:

(1) money appropriated by the general assembly;

(2) appropriations to the fund from other sources; and

(3) grants, gifts, and donations intended for deposit in the fund.

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

(e) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

SECTION 6. IC 14-21-1-6 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 7. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" refers to the courthouse preservation advisory commission established by IC 14-21-4-3, as added by this act.**

(b) Notwithstanding IC 14-21-4-5, as added by this act, the initial members of the commission shall be appointed to terms as follows:

(1) One (1) member appointed under IC 14-21-4-4(a)(1), as added by this act, for a term of three (3) years.

(2) One (1) member appointed under IC 14-21-4-4(a)(2), as added by this act, for a term of three (3) years.

(3) One (1) member appointed under IC 14-21-4-4(a)(3), as added by this act, for a term of three (3) years.

(4) One (1) member appointed under IC 14-21-4-4(a)(4), as added by this act, for a term of two (2) years.

(5) One (1) member appointed under IC 14-21-4-4(a)(5), as added by this act, for a term of two (2) years.

(6) One (1) member appointed under IC 14-21-4-4(a)(6), as added by this act, for a term of two (2) years.

(7) One (1) member appointed under IC 14-21-4-4(a)(7), as added by this act, for a term of one (1) year.

(8) One (1) member appointed under IC 14-21-4-4(a)(8), as added by this act, for a term of one (1) year.

(c) Notwithstanding IC 14-21-4-5, as added by this act, initial appointments under subsection (b) must be made not later than August 1, 2008.

(d) The commission shall submit a report to the legislative council before August 1, 2011, that includes the commission's findings and recommendations concerning the topics in IC 14-21-4-9(5) through IC 14-21-4-9(9), as added by this act. The report must be in an electronic format under IC 5-14-6.

(e) This SECTION expires July 1, 2012.

P.L.86-2008

[S.189. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-1-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. **(a) As used in this section, "county executive" means the board of commissioners of a county elected under IC 36-2-2-2.**

(b) The ~~board of~~ county ~~commissioners of any county containing taxable property of the value of twenty million dollars ($20,000,000) or more, in which an interstate fair, as authorized by this chapter, shall~~

~~be located,~~ **executive** may ~~in their discretion,~~ make an allowance out of the general funds of ~~said~~ **the** county to ~~said association. But~~ **a corporation incorporated under this chapter.**

(c) Before ~~any such~~ **an** allowance ~~shall be~~ **under subsection (b) is** made, the president or secretary of the association shall file **a sworn statement** with ~~said board his sworn statement,~~ **the county executive,** showing the:

(1) name and date of organization of ~~such~~ **the** association; and ~~the~~

(2) amount expended for fair grounds and permanent improvements ~~thereon,~~ **needed for the fair grounds,** and the amount necessary ~~to be expended~~ to complete ~~such~~ **the** improvements. ~~whereupon,~~

(d) After receiving a sworn statement under subsection (c), the ~~board~~ **county executive** may make ~~such allowances as it shall deem~~ **an allowance that the county executive considers** necessary, **but that does** not ~~exceeding in the aggregate, the sum of~~ **exceed either of the following:**

(1) Ten thousand dollars ($10,000). ~~and not exceeding~~

(2) One-half (1/2) the amount shown by ~~such~~ **the** statement to ~~have been~~ **be** expended on ~~such~~ **the** grounds and improvements. ~~And~~

(e) The amount ~~so~~ appropriated under this ~~chapter shall be~~ **section is** a lien on ~~all~~ the real and personal property of ~~said~~ **the** association. ~~and no~~

(f) Dividends ~~shall~~ **may not** be declared or paid to the incorporators or stockholders until the appropriation made by the board ~~shall be~~ **is** repaid to the county treasurer with interest.

SECTION 2. IC 15-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Whenever~~ The president or secretary of ~~any such society or organization shall file~~ **a 4-H club described in section 1 of this chapter may file a petition signed by at least thirty (30) resident freeholders of the county** with the county auditor of ~~any~~ **the** county, ~~a petition signed by thirty (30) or more resident freeholders of such county,~~ requesting **that** the ~~board of commissioners to~~ **executive** make ~~any~~ **an** allowance provided for in section 1 of this chapter.

(b) The county auditor shall ~~cause such~~ **have the** petition, without the signatures, ~~attached thereto, to be published~~ **printed** in a newspaper

of general circulation ~~printed and~~ **that is** published in the county. ~~and said auditor shall in said~~

(c) The notice ~~give the~~ **must state** the **date,** time, **and place** when ~~such~~ **the** petition will be considered by the ~~board of county commissioners, which~~ **executive. The auditor shall set the date,** time, ~~shall be fixed by the auditor for not less than:~~ **and place at which the petition will be considered, which must be at least** thirty (30) days after the publication of ~~such~~ **the** notice.

(d) If: ~~on or before~~

(1) not later than the time ~~fixed~~ **published** in ~~said~~ **the** notice for the consideration of ~~said~~ **the** petition by the ~~board of county commissioners,~~ **executive,** a remonstrance signed by more resident freeholders of the county than the number signing the petition ~~shall be~~ **is** filed with the county auditor protesting ~~the making of~~ the allowance, ~~as petitioned for,~~ the ~~said board~~ **executive** shall consider ~~such~~ the remonstrance; and ~~if it~~

(2) the executive finds that ~~it~~ **the remonstrance** is signed by a greater number of resident freeholders than the petition asking for an allowance, the ~~board of county commissioners shall have no authority to~~ **executive:**

(A) may not make an allowance for ~~such purpose~~ **the purposes set forth in section 1 of this chapter;** and

(B) shall dismiss ~~said~~ **the** petition and take no further action. ~~thereon.~~

~~(b)~~ **(e)** ~~Any such~~ **After final acceptance by the executive, a** petition ~~after final acceptance by the board of county commissioners, shall be~~ **under this section is** effective for one (1) ~~or more~~ **to five (5)** years, ~~such time to be~~ **as** determined by the ~~board, but in no event for a longer period of time than five (5) years.~~ **executive.**

~~(c)~~ **(f)** The county council ~~shall have the power and authority to~~ **may** levy an annual tax of not ~~to exceed~~ **more than** three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation for the purpose of:

(1) constructing;

(2) operating; or

(3) maintaining; ~~any~~

a building owned and operated by ~~such an agricultural association. Provided, however, that such~~ **a 4-H club described in section 1 of this**

chapter. The tax may be levied only until the building has been constructed ~~and in no event~~ **or** for a ~~longer~~ period of ~~time~~ **not more** than five (5) years, **whichever occurs first.** After the building has been constructed, the county council may levy an annual tax of not ~~to exceed~~ **more than** sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of assessed valuation for the purpose of operating and maintaining ~~such~~ **the** building.

~~(d)~~ **(g)** ~~Any agricultural association shall have the power and authority to~~ **A 4-H club described in section 1 of this chapter may** solicit and accept ~~contributions of~~ any kind ~~or nature~~ **of contribution** for the development and maintenance of ~~any of their~~ **the organization's** projects.

SECTION 3. IC 15-2.1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a)** Cattle, goats, and cervids that ~~show a positive reaction~~ **react positively** to a tuberculin test ~~shall~~ **must** be marked immediately using a method of identification approved by the board.

(b) All animals ~~identified in accordance with the foregoing provisions~~ **marked under this section** shall be appraised by an authorized agent of the board or the United States Department of Agriculture.

(c) An identification **mark** on reactor cattle, **goats, and cervids** may not be tampered with or altered.

SECTION 4. IC 15-2.1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board may adopt rules requiring that:

(1) all dairy or breeding cattle and bison sold through any public or private sale must be accompanied with an official health certificate; and ~~that~~

(2) the cattle and bison test negative for brucellosis and tuberculosis.

However, a special form ~~as~~ prescribed by the board may be used for this purpose instead of the certificate of veterinary inspection.

(b) The board may adopt rules exempting animals from testing for brucellosis and tuberculosis within Indiana or other states or areas.

(c) ~~The board may not adopt rules exempting animals presenting little risk of spreading disease from brucellosis and tuberculosis testing requirements. However,~~ The state veterinarian may order cattle of any

age to be tested to determine the disease status of the animal.

SECTION 5. IC 15-2.1-18-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a)** The owner of an animal affected with a dangerous or contagious disease shall report **the disease** to the state veterinarian ~~the existence of the disease within~~ **not later than** forty-eight (48) hours after ~~knowing it to exist. Any other~~ **discovering the existence of the disease.**

(b) A person ~~knowing~~ **who is not the owner of an animal but knows** or ~~having~~ **has** reason to suspect **that** a dangerous, contagious, or infectious disease ~~to exist~~ **exists** among animals shall report the ~~same~~ **existence of disease** to the state veterinarian or local health officer not ~~more~~ **later** than forty-eight (48) hours after discovering **or having reason to suspect that** the ~~condition~~ **disease** exists.

(c) A local health officer ~~that~~ **who** receives a report from a person under this section shall report ~~it~~ **the disease** within twenty-four (24) hours to the state veterinarian.

SECTION 6. IC 15-7-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. **(a)** Any corporation or association, organized under statutes in effect before February 23, 1925, may, by a majority vote of its stockholders or members, **elect to** be ~~brought under~~ **governed by** this chapter by:

(1) limiting its **stockholders or** membership; and

(2) adopting the other restrictions provided in this chapter.

(b) The corporation or association shall make out in duplicate a statement signed and sworn to by its directors, ~~to the effect~~ **specifying** that the corporation or association has, by a majority vote of the stockholders or members:

(1) decided to accept the benefits and be bound by this chapter; and ~~has~~

(2) authorized ~~all~~ **the** changes. ~~accordingly.~~

Articles of incorporation shall be filed as required in section 7 of this chapter, except that ~~they~~ **the articles of incorporation** shall be signed by the **current** members of the ~~then~~ board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation.

SECTION 7. IC 15-12-1-43, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) A corporation or an association organized

under statutes in effect before February 23, 1925, may by a majority vote of its stockholders or members, ~~may~~ elect to be governed by this chapter by:

(1) limiting its **stockholders or** membership; and

(2) adopting the other restrictions provided in this chapter.

(b) The corporation or association shall make out in duplicate a statement signed and sworn to by its directors specifying that the corporation or association has, by a majority vote of the stockholders or members:

(1) decided to accept the benefits of and be bound by this chapter; and

(2) authorized the changes.

Articles of incorporation must be filed as required in section 12 of this chapter, except that the articles of incorporation must be signed by the current members of the board of directors. The filing fee is the same as for filing an amendment to articles of incorporation.

SECTION 8. IC 15-14-1-12, AS ADDED BY SEA 190-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "county executive" means the board of commissioners of a county elected under IC 36-2-2-2.

(b) The county executive ~~of a county containing taxable property with a value of at least twenty million dollars ($20,000,000)~~ may make an allowance out of the general fund of the county to a corporation incorporated under this chapter.

(c) Before an allowance under subsection (b) is made, the president or secretary of the association shall file a sworn statement with the county executive showing the:

(1) name and date of organization of the association; and

(2) amount expended for fairgrounds and permanent improvements needed for the fairgrounds and the amount necessary to complete the improvements.

(d) After receiving a sworn statement under subsection (c), the county executive may make an allowance that the county executive considers necessary, but that does not exceed either of the following:

(1) Ten thousand dollars ($10,000).

(2) One-half (1/2) the amount shown by the statement to be expended on the grounds and improvements.

(e) The amount appropriated under this section is a lien on the real and personal property of the association.

(f) Dividends may not be declared or paid to the incorporators or stockholders until the appropriation made by the board is repaid to the county treasurer with interest.

SECTION 9. IC 15-14-7-3, AS ADDED BY SEA 190-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The president or secretary of a 4-H club described in section 2 of this chapter may file a petition signed by at least thirty (30) resident freeholders of the county with the county auditor of the county requesting that the executive make an appropriation provided for in section 2 of this chapter.

(b) The county auditor shall have the petition, without the signatures, ~~published~~ **printed** in a newspaper of general circulation ~~printed and~~ **that is** published in the county.

(c) The notice must state the date and time when the petition will be considered by the executive. The auditor shall set the date, ~~and~~ time, **and place** at which the petition will be considered, which must be at least thirty (30) days after the publication of the notice.

(d) If not later than the date and time published in the notice for the consideration of the petition by the executive, a remonstrance signed by more resident freeholders of the county than the number signing the petition is filed with the county auditor protesting the allowance, the executive shall consider the remonstrance. If the executive finds that the remonstrance is signed by a greater number of resident freeholders than the petition asking for an allowance, the executive:

(1) may not make an appropriation for the purposes set forth in section 2 of this chapter; and

(2) shall dismiss the petition and take no further action.

(e) After final acceptance by the executive, a petition under this section is effective for one (1) to five (5) years, as determined by the executive.

SECTION 10. IC 15-17-7-5, AS ADDED BY SEA 190-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Cattle, goats, and cervids that react positively to a tuberculin test must be marked immediately using a method of identification approved by the board.

(b) All animals marked under this section shall be appraised by an

authorized agent of the board or the United States Department of Agriculture.

(c) An identification mark on reactor cattle, **goats, and cervids** may not be tampered with or altered.

SECTION 11. IC 15-17-10-1, AS ADDED BY SEA 190-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The owner of an animal affected with a dangerous or contagious disease shall report the disease to the state veterinarian not later than forty-eight (48) hours after discovering the existence of the disease.

(b) A ~~person~~ **veterinarian, caretaker, or custodian of an animal** who:

(1) is not the owner of ~~an~~ **the** animal; ~~who~~ **and**

(2) knows or has reason to suspect that a dangerous, contagious, or infectious disease exists ~~among animals~~ **in the animal;**

shall report the existence of disease to the state veterinarian or local health officer not later than forty-eight (48) hours after discovering **or having reason to suspect** the disease exists.

(c) A local health officer who receives a report from a person under this section shall report the disease within twenty-four (24) hours to the state veterinarian.

SECTION 12. IC 15-17-15-3, AS ADDED BY SEA 190-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The board may adopt rules requiring that:

(1) all dairy or breeding cattle and bison sold through any public or private sale must be accompanied with an official health certificate; and

(2) the cattle and bison test negative for brucellosis and tuberculosis.

However, a special form prescribed by the board may be used for this purpose instead of the certificate of veterinary inspection.

(b) The board may adopt rules exempting animals from testing for brucellosis and tuberculosis within Indiana or other states or areas.

(c) ~~The board may not adopt rules exempting animals presenting little risk of spreading disease from brucellosis and tuberculosis testing requirements. However,~~ The state veterinarian may order cattle of any age to be tested to determine the disease status of the animal.

P.L.87-2008
[S.197. Approved March 19, 2008.]

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

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

SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.228-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

(c) "Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

(d) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services. **For purposes of this subsection, "goods or services" may not include the following when determining the total value of contracts for state agencies:**

(1) Utilities.

(2) Health care services (as defined in IC 27-8-11-1(c)).

(3) Rent paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(e) "Department" refers to the Indiana department of administration established by IC 4-13-1-2.

(f) "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

(1) United States citizens; and

(2) members of a minority group or a qualified minority nonprofit

corporation.

(g) "Qualified minority or women's nonprofit corporation" means a corporation that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) is headquartered in Indiana;

(3) has been in continuous existence for at least five (5) years;

(4) has a board of directors that has been in compliance with all other requirements of this chapter for at least five (5) years;

(5) is chartered for the benefit of the minority community or women; and

(6) provides a service that will not impede competition among minority business enterprises or women's business enterprises at the time a nonprofit applies for certification as a minority business enterprise or a women's business enterprise.

(h) "Owned and controlled" means:

(1) if the business is a qualified minority nonprofit corporation, a majority of the board of directors are minority;

(2) if the business is a qualified women's nonprofit corporation, a majority of the board of ~~defectors~~ **directors** are women; or

(3) if the business is a business other than a qualified minority or women's nonprofit corporation, having:

(A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(B) control over the management and active in the day-to-day operations of the business; and

(C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(i) "Minority group" means:

(1) Blacks;

(2) American Indians;

(3) Hispanics; **and**

(4) Asian Americans. ~~and~~

~~(5) other similar minority groups.~~

(j) "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

(k) "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality

of the executive, including the administrative, department of state government.

SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.228-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

(1) A governor's designee, who shall serve as chairman of the commission.

(2) The commissioner of the Indiana department of transportation, **or the economic opportunity director of the Indiana department of transportation if the commissioner of the Indiana department of transportation so designates.**

(3) The chairperson of the board of the Indiana economic development corporation or the chairperson's designee.

(4) The commissioner of the department.

(5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:

(A) Three (3) from the northern one-third (1/3) of the state.

(B) Three (3) from the central one-third (1/3) of the state.

(C) Three (3) from the southern one-third (1/3) of the state.

(6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.

(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman considers necessary.

(f) The duties of the commission shall include but not be limited to the following:

(1) Identify minority and women's business enterprises in the state.

(2) Assess the needs of minority and women's business enterprises.

(3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.

(4) Give special publicity to procurement, bidding, and qualifying procedures.

(5) Include minority and women's business enterprises on solicitation mailing lists.

(6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations that offer similar services and make recommendation to the department on

policy changes necessary to ensure fair competition among minority and women's business enterprises.

(7) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) to minority and women's business enterprises.

(8) Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) that are required to be updated every five (5) years.

(9) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(10) Ensure that the statistical analysis required under this section:

(A) is based on goals for participation of minority business enterprises established in Richmond v. Croson, 488 U.S. 469 (1989);

(B) includes information on both contracts and subcontracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions); and

(C) uses data on the combined capacity of minority and women's businesses enterprises in Indiana and not just regional data.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as

is necessary for the effective operation of the commission.

SECTION 3. IC 4-35-11-3, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "minority" means a ~~person who is one (1) of the following:~~

~~(1) Black.~~

~~(2) Hispanic.~~

~~(3) Asian American.~~

~~(4) Native American or Alaskan native.~~

member of a minority group (as defined in IC 4-13-16.5-1).

SECTION 4. IC 4-35-11-4, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "minority business enterprise" ~~means a business that is one (1) of the following:~~

~~(1) A sole proprietorship owned and controlled by a minority.~~

~~(2) A partnership or joint venture owned and controlled by minorities and in which:~~

~~(A) at least fifty-one percent (51%) of the ownership interest is held by at least one (1) minority; and~~

~~(B) the management and daily business operations are controlled by at least one (1) minority who also holds an ownership interest.~~

~~(3) A corporation or other entity in which:~~

~~(A) at least fifty-one percent (51%) of:~~

~~(i) the ownership interest; or~~

~~(ii) the stock, if stock is issued;~~

~~is held by at least one (1) minority; and~~

~~(B) the management and daily business operations are controlled by at least one (1) minority who also holds an ownership interest or stock.~~

has the meaning set forth in IC 4-13-16.5-1.

SECTION 5. IC 4-35-11-5, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "women's business enterprise" ~~means a business that is one (1) of the following:~~

~~(1) A sole proprietorship owned and controlled by a woman.~~

~~(2) A partnership or joint venture owned and controlled by women and in which:~~

~~(A) at least fifty-one percent (51%) of the ownership interest is held by at least one (1) woman; and~~

~~(B) the management and daily business operations are controlled by at least one (1) woman who also holds an ownership interest.~~

~~(3) A corporation or other entity in which:~~

~~(A) at least fifty-one percent (51%) of:~~

~~(i) the ownership interest; or~~

~~(ii) the stock, if stock is issued;~~

~~is held by at least one (1) woman; and~~

~~(B) the management and daily business operations are controlled by at least one (1) woman who also holds an ownership interest or stock.~~

has the meaning set forth in IC 4-13-16.5-1.3.

SECTION 6. IC 4-35-11-8, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **The commission shall use the certifications made under IC 4-13-16.5 for minority and women's business enterprises that do business with horse track operations on contracts for goods or services or contracts for business.**

~~The commission shall establish and administer a unified certification procedure for minority and women's business enterprises that do business with permit holders on contracts for goods and services or contracts for business.~~

SECTION 7. IC 4-35-11-9, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The commission shall supply permit holders with a list of minority and women's business enterprises ~~the commission has~~ certified under section 8 of this chapter. ~~The commission shall review the list at least annually to determine the minority and women's business enterprises that should continue to be certified. The commission shall establish procedures for challenging the designation of a certified minority and women's business enterprise. The procedure must include proper notice and a hearing for all concerned parties.~~

P.L.88-2008
[S.257. Approved March 19, 2008.]

AN ACT concerning state administration.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to an interim or a statutory committee the topic of modernizing the system for filing mechanic's liens through incorporation of a statewide online registry for mechanic's liens.**

(b) This SECTION expires November 1, 2008.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "system" refers to a legacy high-volume, transaction processing system.**

(b) The budget agency, in conjunction with the office of technology, shall review and make recommendations to the legislative council regarding the following:

(1) The use of a system by state agencies.

(2) The overall cost of maintaining a system.

(3) The efficiency of a system.

(4) The competitiveness of the market for a system.

(5) The ability to locate individuals who can repair and replace a system.

(6) The cost savings that could be realized if the system is replaced by other technologies.

(7) Any other issues the budget agency determines necessary to make the recommendations required by this SECTION.

(c) The budget agency shall submit a report containing the recommendations required by this SECTION to the legislative council before November 1, 2008. The report must be in an electronic format under IC 5-14-6.

(d) This SECTION expires November 1, 2008.

SECTION 3. **An emergency is declared for this act.**

P.L.89-2008
[S.334. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning local government and to make an appropriation.

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

SECTION 1. IC 36-8-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21.5. Severe Weather Warning Sirens

Sec. 1. As used in this chapter, "department" refers to:

(1) the department of homeland security established by IC 10-19-2-1; or

(2) an appropriate division within the department of homeland security, as determined by the executive director of the department of homeland security.

Sec. 2. As used in this chapter, "infrastructure agency", with respect to an area in a county, means:

(1) a political subdivision; or

(2) an agency;

responsible for planning for, acquiring, operating, maintaining, or testing one (1) or more severe weather warning sirens in the area.

Sec. 3. As used in this chapter, "plan" refers to a siren coverage plan adopted by a county under section 13 of this chapter.

Sec. 4. As used in this chapter, "planning agency", with respect to an area, means:

(1) a unit that has planning and zoning jurisdiction over all or any part of the area; or

(2) a plan commission that has planning jurisdiction over all or any part of the area.

Sec. 5. As used in this chapter, "planned siren" refers to a siren that satisfies all of the following:

(1) The siren has a definite location within the county.

(2) The funding for the siren has been identified.

(3) An approximate date for the siren's acquisition and installation has been determined.

Sec. 6. As used in this chapter, "report" refers to a siren coverage report prepared by a county under section 11 of this chapter.

Sec. 7. As used in this chapter, "severe weather" means:

(1) a tornado; or

(2) any other storm, weather condition, or emergency designated by the department in a rule adopted under section 9 of this chapter.

Sec. 8. As used in this chapter, "severe weather warning siren" or "siren" means a siren that can be activated within a specified range to warn residents of an occurrence or imminent threat of severe weather.

Sec. 9. Before January 1, 2010, the department shall adopt rules under IC 4-22-2 to provide for the following:

(1) Minimum technical standards, including a minimum range, for any siren that is to be acquired and installed in a county under a county's siren coverage plan.

(2) A specification of any permissible storm, weather condition, or emergency, other than a tornado, for which a severe weather warning siren may be activated.

(3) Requirements for any test, activation, or failure rate data that the department may require a county to submit with respect to any siren identified by a county in a:

(A) siren coverage report prepared under this chapter; or

(B) siren coverage plan prepared under this chapter.

(4) Any other rules necessary for the department to:

(A) assess the number, location, and condition of existing severe weather warning sirens in each county in Indiana; and

(B) determine the need for additional sirens in order to ensure comprehensive severe weather warning siren coverage for all Indiana residents.

Sec. 10. (a) At the request of the county legislative body, the department shall assist the county in development of a siren coverage plan for the county.

(b) In developing a siren coverage plan for a county, the

department may require the county to develop a siren coverage report.

Sec. 11. (a) Except for the recommendation required by subsection (b)(3), the county legislative body may designate one (1) or more:

(1) infrastructure agencies; or

(2) other departments, divisions, or agencies;

to prepare a siren coverage report.

(b) A siren coverage report must include the following:

(1) A description of all existing and planned severe weather warning sirens in the county as of the date of the report. For each severe weather warning siren identified, the following information must be included:

(A) The location of the siren within the county, including an identification of any political subdivision in which the siren is or will be located. The information provided under this clause must include a map depicting the location of each siren within the county.

(B) The following technical and other specifications for the siren:

(i) The manufacturer and model year.

(ii) For an existing siren, the date of installation.

(iii) For a planned siren, the planned dates for installation and first operation.

(iv) The range of the siren, identified in miles or some other appropriate measure of distance.

(v) The number of persons living within the range identified under item (iv), as determined by the most recent federal census block data available.

(vi) For an existing siren, siren activation data for the most recent twelve (12) month period, including the date of each activation and whether the siren was activated for testing purposes or for an actual severe weather event. If an existing siren has been in operation for less than twelve (12) months, the data required by this item must cover all activations occurring since the date the siren first came online.

(vii) For an existing siren, the siren's failure rate, as determined from the data reported under item (vi).

(2) An identification of the areas in the county that are not within the range of an existing or a planned siren. For each area identified under this subdivision, the following information must be included:

(A) The number of persons living in the area, as determined by the most recent federal census block data available.

(B) Any development planned for the area, as determined through consultation with all appropriate planning agencies. The information required by this clause must include:

(i) the type of development proposed;

(ii) the number of new dwelling units or other buildings proposed; and

(iii) the status of the proposal, including the status of any needed permits or approvals.

(3) Subject to subsection (e), a recommendation by the county legislative body as to the county's need for any additional sirens, other than those sirens identified as planned sirens under subdivision (1). The county legislative body may recommend under this subdivision additional sirens to provide coverage for:

(A) any of the areas identified under subdivision (2) as not within the range of an existing or a planned siren; or

(B) any area identified under subdivision (1) as within the range of an existing siren, if the county legislative body determines that the existing siren does not provide consistent or adequate coverage for the area, based on the existing siren's failure rate, as determined under subdivision (1)(B)(vii).

(c) In making a recommendation under subsection (b)(3), the county legislative body:

(1) may consult with the department; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area identified by the county legislative body as needing one (1) or more sirens.

(d) Before adopting the siren coverage report prepared under

this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the report.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire report is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the report:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by subsection (d); and

(2) submit the report to the department.

Sec. 12. The department shall do the following not later than six (6) months after a county submits a report under section 11 of this chapter:

(1) Review the siren coverage report.

(2) Make any recommendations to the county that the department determines is necessary to ensure comprehensive severe weather warning siren coverage for all residents of the county.

Sec. 13. (a) A county's siren coverage plan must contain the following information:

(1) The information included in the county's siren coverage report under section 11 of this chapter, including the following:

(A) Information concerning any areas in the county that are not within the range of an existing or a planned siren, as:

(i) identified by the county in its siren coverage report; and

(ii) updated or revised by the county as needed to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(B) Information concerning any areas in the county that are within the range of an existing siren if the department has determined that the existing siren does not provide

consistent or adequate coverage for the area. As necessary, the county shall update the information provided under this clause as follows:

(i) To include any additional existing sirens that the county legislative body has determined do not provide consistent or adequate coverage for an area. The county shall provide the test, activation, or failure rate data to support its determination as may be required by a rule adopted by the department under this chapter.

(ii) To exclude any siren that the department has determined does not provide consistent or adequate coverage for an area. The county shall provide such proof as may be required by a rule adopted by the department under this chapter that the siren has been repaired or replaced.

(C) Any additional or revised information that:

(i) was not included in the county's siren coverage report; and

(ii) is necessary to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(2) An estimate of the nature and location of development that is expected to occur in each area identified under subdivision (1) during the ten (10) years immediately following the date of the adoption of the plan.

(3) An estimate of the type, location, and cost of the siren or sirens that are necessary to provide complete siren coverage for the areas identified under subdivision (1). The plan must indicate:

(A) the proposed timing and sequencing of the acquisition and installation of each siren; and

(B) the infrastructure agency that is responsible for acquiring and providing for the installation of each siren.

(4) A general description of the sources and amounts of money used to pay for any sirens installed in the county during the five (5) years immediately preceding the date of the plan.

(b) For each area in which the plan provides for the acquisition and installation of a siren, the plan must:

(1) provide for the acquisition and installation within the ten (10) years immediately following the date of the plan's adoption; and

(2) identify the revenue sources and estimate the amount of the revenue sources that the county intends to use to acquire and install the sirens identified under subsection (a)(3).

(c) In preparing, or causing to be prepared, the plan required by this section, the county:

(1) may consult with:

(A) the department; or

(B) a qualified engineer licensed to perform engineering services in Indiana; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area described in subsection (a)(1).

(d) Before adopting the siren coverage plan prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the plan.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the plan:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by subsection (e); and

(2) submit the plan to the department.

(f) A siren coverage plan adopted under this section takes effect on January 1 after its adoption. Each unit having planning and zoning jurisdiction in an area described in subsection (a)(1) shall incorporate the siren coverage plan as part of the unit's comprehensive plan and capital improvement plan, as appropriate.

Sec. 14. The department shall assist a county that adopts a siren coverage plan to do the following:

(1) Implementation of the plan.

(2) Obtain federal and other grants to enable the county in implementation of the plan.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the department of homeland security established by IC 10-19-2-1.**

(b) Notwithstanding IC 36-8-21.5-9, as added by this act, the department shall adopt rules to implement IC 36-8-21.5, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than January 1, 2010, as required by IC 36-8-21.5-9, as added by this act. A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the department under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 36-8-21.5, as added by this act; or

(2) July 1, 2012.

(c) This SECTION expires July 1, 2012.

SECTION 3. **An emergency is declared for this act.**

P.L.90-2008

[S.352. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY HEA 1137-2008, SECTION 9, AS AMENDED BY SEA 156-2008, SECTION 1, AND AS AMENDED BY SEA 190-2008, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by *or other date provided by* federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency

rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, ~~or~~ IC 4-33-4-14, *or IC 4-35-4-2.*

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15. ~~*or IC 12-15-44-19(b).*~~

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the

agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection ~~(a)(6),~~ (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 5-10.3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The custodians must be banks or trust companies that are domiciled in the United States and approved by the ~~Indiana department of financial institutions under IC 28-1-2-39~~ **board** to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

~~in Indiana.~~ **on behalf of the fund.**

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

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

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

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

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

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

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

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

SECTION 3. IC 5-10.4-3-13, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The board may enter into a custodial

agreement on terms the board considers in the best interest of the fund with a bank or trust company that is domiciled in the United States and approved by the ~~Indiana department of financial institutions under IC 28-1-2-39~~ **board** to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

~~in Indiana.~~ **on behalf of the fund.**

(b) The agreement described in subsection (a) may authorize the custodian to:

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

(2) collect the income and other receipts from the securities and other investments and deposit them subject to the instructions of the board or the board's representative;

(3) reinvest the receipts on the direction of the board or the board's representative;

(4) maintain accounting records and prepare reports as may be required for use by the fund and the state board of accounts; and

(5) perform other services for the board that are appropriate and customary for the custodian.

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

SECTION 4. IC 24-4.5-1-102, AS AMENDED BY P.L.217-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 102. Purposes; Rules of Construction—(1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due

regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and

(g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~2006.~~ **2007.**

(5) This article applies to a transaction if the director determines that the transaction:

(a) is in substance a disguised consumer credit transaction; or

(b) involves the application of subterfuge for the purpose of avoiding this article.

A determination by the director under this paragraph must be in writing and shall be delivered to all parties to the transaction. IC 4-21.5-3 applies to a determination made under this paragraph.

SECTION 5. IC 24-4.5-1-201, AS AMENDED BY P.L.217-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 201. (1) Except as otherwise provided in this section, this article applies to sales, leases, and loans made in this state and to modifications, including refinancings, consolidations, and deferrals, made in this state, of sales, leases, and loans, wherever made. For purposes of this article, the following apply:

(a) A sale or modification of a sale agreement is made in this state if the buyer's agreement or offer to purchase or to modify is received by the seller or a person acting on behalf of the seller in this state.

(b) A lease or modification of a lease agreement is made in this state if the lessee's agreement or offer to lease or to modify is received by the lessor or a person acting on behalf of the lessor in this state.

(c) A loan or modification of a loan agreement is made in this state if a writing signed by the debtor and evidencing the debt is received by the lender or a person acting on behalf of the lender

in this state.

(d) **Except as provided in subdivision (e),** a sale, lease, or loan transaction occurs in Indiana if a consumer who is a resident of Indiana enters into a consumer sale, lease, or loan transaction with a creditor **or a person acting on behalf of the creditor** in another state and the creditor **or the person acting on behalf of the creditor** has advertised or solicited sales, leases, or loans in Indiana by any means, including by mail, brochure, telephone, print, radio, television, the Internet, or electronic means. However, during the period beginning July 1, 2007, and ending June 30, 2009, this subdivision does not apply to an affiliate or a subsidiary of a financial corporation issued a certificate of authority to operate as an industrial loan and investment company under IC 28-5 if all of the following apply:

(i) The industrial loan and investment company notifies the department in writing that an affiliate or a subsidiary of the industrial loan and investment company engages or plans to engage in activity involving Indiana residents at an out of state location. The notification required by this clause must list all states other than Indiana in which consumer loans may be made and must describe the nature of the proposed transactions.

(ii) The industrial loan and investment company provides written consent allowing the department to consult with and review information provided by other state regulators, as may be requested by the department, concerning the activities identified in clause (i) of any affiliate or subsidiary engaging in consumer lending to Indiana residents in the states identified under clause (i).

(iii) The industrial loan and investment company provides written consent allowing the department to inspect or examine all out of state locations in which an affiliate or a subsidiary of the industrial loan and investment company engages in the activities identified under clause (i) for the purpose of investigating the affiliate's or subsidiary's consumer lending practices involving Indiana residents. An inspection or examination performed by the department under this clause is subject to the schedule of fees established by the department

under IC 28-11-3-5.

(e) A sale, lease, or loan transaction does not occur in Indiana if a consumer who is a resident of Indiana enters into a consumer sale, lease, or loan transaction secured by an interest in land located outside Indiana.

For purposes of subdivisions (a) through (c), an offer is received by a creditor **or a person acting on behalf of the creditor** in Indiana if the offer is physically delivered, or otherwise transmitted or communicated, to a person who has actual or apparent authority to act for the creditor **or the person acting on behalf of the creditor** in Indiana, regardless of whether approval, acceptance, or ratification by any other agent or representative of the creditor **or the person acting on behalf of the creditor** in another state is necessary to give legal consequence to the consumer credit transaction.

(2) IC 24-4.5-5-101 through IC 24-4.5-5-108 apply to actions or other proceedings brought in this state to enforce rights arising from consumer credit sales, consumer leases, or consumer loans, or extortionate extensions of credit, wherever made.

(3) Except as provided in subsection (2), a sale, lease, loan, or modification thereof, made in another state to a person who was not a resident of this state when the sale, lease, loan, or modification was made is valid and enforceable in this state according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.

(4) For the purposes of this article, the residence of a buyer, lessee, or debtor is the address given by the buyer, lessee, or debtor as the buyer's, lessee's, or debtor's residence in any writing or electronic communication made by the buyer, lessee, or debtor in connection with a credit transaction. Until the buyer, lessee, or debtor notifies the creditor **or the person acting on behalf of the creditor** of a new or different address, the given address is presumed to be unchanged.

(5) Notwithstanding other provisions of this section:

(a) except as provided in subsection (2), this article does not apply if the buyer, lessee, or debtor is not a resident of this state at the time of a credit transaction and the parties then agree that the law of the buyer's, lessee's, or debtor's residence applies; and

(b) this article applies if the buyer, lessee, or debtor is a resident of this state at the time of a credit transaction and the parties then

agree that the law of this state applies.

(6) Except as provided in subsection (5), the following agreements by a buyer, lessee, or debtor are invalid with respect to consumer credit sales, consumer leases, consumer loans, or modifications thereof, to which this article applies:

(a) that the law of another state shall apply;

(b) that the buyer, lessee, or debtor consents to the jurisdiction of another state; and

(c) that fixes venue.

(7) The following provisions of this article specify the applicable law governing certain cases:

(a) applicability (IC 24-4.5-6-102) of the provisions on powers and functions of the department; and

(b) applicability (IC 24-4.5-6-201) of the provisions on notification and fees.

(8) If a creditor **or a person acting on behalf of the creditor** has violated the provisions of this article that apply to the authority to make consumer loans (IC 24-4.5-3-502), the loan is void and the debtor is not obligated to pay either the principal or loan finance charge, as set forth in IC 24-4.5-5-202.

SECTION 6. IC 24-4.5-1-301, AS AMENDED BY P.L.57-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 301. General Definitions – In addition to definitions appearing in subsequent chapters in this article:

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products; "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat

the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable in installments; and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(11) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(12) "Organization" means a corporation, a government or governmental subdivision, or an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, ~~or~~ an association, **a joint venture, an unincorporated organization, or any other entity, however organized.**

(13) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(14) "Person" includes ~~a natural person or~~ an individual ~~and~~ **or** an organization.

(15) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the

organization who shares the same home with the person.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(17) "Mortgage transaction" means a transaction in which a first mortgage or a land contract which constitutes a first lien is created or retained against land.

(18) "Regularly engaged" means a person who extends consumer credit more than:

(a) twenty-five (25) times; or

(b) five (5) times for transactions secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(22) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

SECTION 7. IC 24-4.5-3-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-3-209), and powers and functions of the department ~~(IC 24-4.5-6-101),~~ **(IC 24-4.5-6-104),** "consumer loan" does not include a loan primarily secured by an interest in land which is a mortgage transaction, (as defined in IC 24-4.5-1-301(17)).

SECTION 8. IC 24-4.5-3-402, AS AMENDED BY P.L.217-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 402. (1) **This section does not apply to a first lien mortgage transaction.**

(2) Except as provided in IC 24-9-4-3 with respect to a high cost home loan (as defined in IC 24-9-2-8), with respect to a consumer loan, other than one pursuant to a revolving loan account or one on which only loan finance charges are payable prior to the time that the final scheduled payment is due, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the debtor has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the debtor than the terms of the original loan. This section does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the debtor.

~~(2)~~ **(3)** For the purposes of this section, "terms of the refinancing" means:

(a) in the case of a fixed-rate consumer loan, the individual payment amounts, the charges as a result of default by the debtor, and the rate of the loan finance charge; and

(b) in the case of a variable rate consumer loan, the method used to determine the individual payment amounts, the charges as a result of default by the debtor, the method used to determine the rate of the loan finance charge, the circumstances under which the rate of the loan finance charge may increase, and any limitations on the increase in the rate of the loan finance charge.

~~(3)~~ **(4)** If a consumer loan is made under the authority of the Alternative Mortgage Transaction Parity Act (12 U.S.C. 3802 et seq.), the note evidencing the mortgage must contain a reference to the applicable federal law.

SECTION 9. IC 24-4.5-3-503, AS AMENDED BY P.L.217-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 503. License to Make Consumer Loans—(1) The department shall receive and act on all applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions.

(2) A license shall not be issued unless the department finds that the financial responsibility, character, and fitness of:

(a) the applicant and **any significant affiliate of the applicant;**

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

~~of the members of the applicant (if the applicant is a copartnership or an association) and of the officers and directors of the applicant (if the applicant is a corporation)~~ are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

~~(3)~~ **(4)** Evidence of compliance with this section may include:

(a) criminal background checks, including a national criminal history **background** check **(as defined in IC 10-13-3-12)** by the Federal Bureau of Investigation, **for any individual described in subsection (2);**

(b) credit histories; and

(c) other background checks considered necessary by the director.

If the director requests a national criminal history background

check under subdivision (a) for an individual described in subsection (2), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (3). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

~~(4)~~ **(5)** The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

~~(5)~~ **(6)** Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license as provided in IC 4-21.5.

~~(6)~~ **(7)** The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An initial investigation fee as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

~~(7)~~ **(8)** A fee as established by the department under IC 28-11-3-5 may be charged for each day the annual renewal fee under subsection ~~(6)(c)~~ **(7)(c)** is delinquent.

~~(8)~~ **(9)** The applicant may deduct the fees required under subsection ~~(6)(a)~~ **(7)(a)** through ~~(6)(c)~~ **(7)(c)** from the filing fees paid under IC 24-4.5-6-203.

~~(9)~~ **(10)** A loan license issued under this section is not assignable or transferable.

~~(10)~~ **(11)** Subject to subsection ~~(11),~~ **(12),** the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses under this

section; and

(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system.

~~(11)~~ **(12)** The director's authority to designate an automated central licensing system and repository under subsection ~~(10)~~ **(11)** is subject to the following:

(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:

(i) submit information to; or

(ii) participate in;

the automated central licensing system and repository.

(b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute; ~~or~~

(ii) initiate any civil action based on information obtained from the automated central licensing system **and repository** if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the automated central licensing system **and repository** if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are **confidential under IC 28-1-2-30 and that are:**

(i) furnished by the director, the director's designee, or a licensee; or ~~that are~~

(ii) otherwise obtained by the automated central licensing system and repository;

are confidential and privileged by law and are not ~~(i)~~ subject to inspection under IC 5-14-3, ~~(ii)~~ subject to subpoena, ~~(iii)~~ subject

to discovery, or ~~(iv)~~ admissible in evidence in any civil action. However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.

(d) Disclosure of documents, materials, and information:

(i) to the director or the director's designee; or

(ii) by the director or the director's designee;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.

(f) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(g) The director may require a licensee required to submit information to the automated central licensing system and repository to pay a processing fee considered reasonable by the director.

SECTION 10. IC 24-4.5-3-504, AS AMENDED BY P.L.217-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 504. Revocation or Suspension of License—(1) The department may issue to a person licensed to make consumer loans an order to show cause why the license should not be revoked or suspended for a period determined by the department. The order shall state the place and time for a meeting with the department that is no less than ten (10) days from the date of the order. After the meeting, the department shall revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated this article or any rule or order lawfully made pursuant to this article; ~~or~~

(b) the licensee has repeatedly and willfully violated federal consumer credit laws; or

~~(b)~~ **(c)** facts or conditions exist which would clearly have justified the department in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made.

(2) Except as provided in section 503.5 of this chapter, no revocation or suspension of a license is lawful unless prior to institution of proceedings by the department notice is given to the licensee of the facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the department finds that probable cause for revocation of a license exists and that enforcement of this article requires immediate suspension of the license pending investigation, the department may, after a ~~meeting with the licensee~~ **hearing** upon five (5) days written notice to the licensee, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of the revocation or suspension. Within five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect the person's liability for acts previously committed.

(6) No revocation, suspension, or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any debtor.

(7) The department may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would have justified the department in refusing to grant a license.

(8) If the director:

(a) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(b) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under

IC 4-21.5-3-6.

SECTION 11. IC 24-4.5-3-505, AS AMENDED BY P.L.217-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 505. Records; Annual Reports—(1) Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the department to determine whether the licensee is complying with the provisions of this article. The record keeping system of a licensee shall be sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever located. The records pertaining to any loan shall be retained for two (2) years after making the final entry relating to the loan, but in the case of a revolving loan account the two (2) years is measured from the date of each entry. **A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.**

(2) Every licensee shall file with the department a composite report as required by the department, but not more frequently than annually, in the form prescribed by the department relating to all consumer loans made by the licensee. The department shall consult with comparable officials in other states for the purpose of making the kinds of information required in the reports uniform among the states. Information contained in the reports shall be confidential and may be published only in composite form. The department may impose a fee in an amount fixed by the department under IC 28-11-3-5 for each day that a licensee fails to file the report required by this subsection.

(3) Every licensee shall file notification with the department if the licensee:

(a) has a change in name, address, or principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;

not later than thirty (30) days after the date of the event described in this subsection.

(4) Every licensee shall file notification with the department if ~~a key officer or director of the licensee:~~ **an individual described in section 503(2)(b) or 503(2)(c) of this chapter:**

(a) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(b) has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

not later than thirty (30) days after the date of the event described in this subsection.

SECTION 12. IC 24-4.5-4-108, AS AMENDED BY P.L.217-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 108. Refund or Credit Required; Amount — (1) Upon prepayment in full of a consumer credit sale or consumer loan by the proceeds of consumer credit insurance, the debtor or the debtor's estate is entitled to a refund of:

(a) any portion of a separate charge for insurance which by reason of prepayment is retained by the creditor or returned to the creditor by the insurer unless the charge was computed from time to time on the basis of the balances of the debtor's account; and

(b) any portion of an additional charge that is:

(i) assessed in accordance with ~~IC 24-4.5-2-202~~ **IC 24-4.5-2-202(1)(c)** or ~~IC 24-4.5-3-202~~ **IC 24-4.5-3-202(1)(e);** and

(ii) subject to rebate upon prepayment.

(2) This chapter does not require a creditor to grant a refund or credit to the debtor if all refunds and credits due to the debtor under this chapter amount to less than one dollar ($1), and except as provided in subsection (1) does not require the creditor to account to the debtor for any portion of a separate charge for insurance because:

(a) the insurance is terminated by performance of the insurer's obligation;

(b) the creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(c) the creditor receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

(3) Except as provided in subsection (2), the creditor or the creditor's assignee shall promptly make an appropriate refund or credit to the debtor for any separate charge made for insurance **or for an additional charge described in subsection (1)(b)** if:

(a) the insurance is not provided or is provided for a term shorter than the term for which the charge to the debtor for insurance was computed; or

(b) the insurance **or the protection provided in exchange for the additional charge described in subsection (1)(b)** terminates prior to the end of the scheduled term of the ~~insurance~~ **coverage** because of prepayment in full or otherwise.

(4) An initial creditor, a subsequent creditor, or an assignee of an initial or a subsequent creditor, shall maintain documentation of any account that is subject to a refund or credit under this section. The information maintained under this subsection shall be made available to the department as necessary to determine compliance with this section.

~~(4)~~ **(5)** A refund or credit required by subsection (3) is appropriate as to amount if it is computed according to a method prescribed or approved by the insurance commissioner or a formula filed by the insurer with the insurance commissioner at least thirty (30) days before the debtor's right to a refund or credit becomes determinable, unless the method or formula is used after the insurance commissioner notifies the insurer that it is disapproved.

~~(5)~~ **(6)** If a refund or credit required by subsection (1) **or (3)** is not made to the debtor within sixty (60) days after the date the debt is terminated, due to prepayment in full or otherwise, the creditor shall pay to the debtor for each day after the sixty (60) day period has expired an amount equal to the daily interest at the contracted annual percentage rate on the amount of the refund required by subsection (1) due at the time of prepayment or termination. The director may impose an additional civil penalty of not greater than one thousand dollars ($1,000) per occurrence if a creditor engages in a pattern or practice of failing to comply with ~~the~~ **this** subsection.

SECTION 13. IC 24-4.5-6-203, AS AMENDED BY P.L.217-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 203. (1) Persons required to file notification who are sellers, lessors, or lenders shall pay a fee in an amount and at

intervals to be prescribed by the director under IC 28-11-3-5. The fee shall be a uniform amount for each one hundred thousand dollars ($100,000), or part thereof, in excess of one hundred thousand dollars ($100,000), of the original unpaid balances arising from consumer credit sales, consumer leases, and consumer loans made in Indiana and held either by the seller, lessor, or lender for more than thirty (30) days after the inception of the sale, lease, or loan giving rise to the obligations, or by an assignee who has not filed notification. A refinancing of a sale, lease, or loan resulting in an increase in the amount of an obligation is a new sale, lease, or loan to the extent of the increase. In prescribing the fee, the department shall consider the costs and expense incurred or estimated to be incurred by the department in the administration of this article, including, but not limited to, the supervision, regulation, and examination of persons subject to the provisions of the article.

(2) Persons required to file notification who are assignees shall pay a fee as prescribed and fixed by the department under subsection (1) on the unpaid balances at the time of the assignment of obligations arising from consumer credit sales, consumer leases, and consumer loans made in Indiana taken by assignment during the preceding calendar year, but an assignee need not pay a fee with respect to an obligation on which the assignor or other person has already paid a fee.

(3) Persons required to file notification who are assignors shall pay a fee as prescribed by the department under subsection (1) on the unpaid balances at the time of the assignment of obligations arising from consumer credit sales, consumer leases, and consumer loans made in Indiana during the preceding calendar year unless the assignee has already paid the fees.

(4) Persons required to renew a license under IC 24-4.5-3-503 may deduct the fees paid under ~~IC 24-4.5-3-503(6)(a)~~ **IC 24-4.5-3-503(7)(a)** through ~~IC 24-4.5-3-503(6)(c)~~ **IC 24-4.5-3-503(7)(c)** from fees paid under this section.

(5) A person that is required to file notification under IC 24-4.5-6-202 shall pay a fee at the same rate as prescribed and fixed by the department under subsection (1) on the original unpaid balances of all closed end credit obligations originating from the person's place of business during the time preceding the notification as specified under subsection (1), unless the fees for the obligations have been paid

by another person.

SECTION 14. IC 24-4.5-7-202, AS AMENDED BY P.L.217-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 202. (1) Notwithstanding any other law, the only fee that may be contracted for and received by the lender **or an assignee** on a small loan is a charge, not to exceed twenty-five dollars ($25), for each:

(a) return by a bank or other depository institution of a:

(i) dishonored check;

(ii) negotiable order of withdrawal; or

(iii) share draft;

issued by the borrower; or

(b) time an authorization to debit the borrower's account is dishonored.

This additional charge may be assessed one (1) time regardless of how many times a check or an authorization to debit the borrower's account may be submitted by the lender and dishonored.

(2) A lender may:

(a) present a borrower's check for payment; or

(b) exercise a borrower's authorization to debit the borrower's account;

not more than three (3) times.

SECTION 15. IC 24-4.5-7-404, AS AMENDED BY P.L.217-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 404. (1) As used in this section, "commercially reasonable method of verification" means ~~one (1) or more~~ **a** private consumer credit reporting ~~services~~ **service** that the department determines to be capable of providing a lender with adequate verification information necessary to ensure compliance with subsection (4).

(2) With respect to a small loan, no lender may permit a person to become obligated under more than one (1) loan agreement with the lender at any time.

(3) A lender shall not make a small loan that, when combined with the outstanding balance on another outstanding small loan owed to another lender, exceeds a total of five hundred fifty dollars ($550), excluding finance charges. A lender shall not make a small loan to a borrower who has two (2) or more small loans outstanding, regardless

of the total value of the small loans. The amount of five hundred fifty dollars ($550) in this subsection is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

(4) A lender complies with subsection (3) if the borrower represents in writing that the borrower does not have any outstanding small loans with the lender, another lender, an affiliate of the lender or another lender, or a separate entity involved in a business association with the lender or another lender in making small loans, and the lender independently verifies the accuracy of the borrower's written representation through a commercially reasonable method of verification. A lender's method of verifying whether a borrower has any outstanding small loans will be considered commercially reasonable if the method includes a manual investigation or an electronic query of:

(a) the lender's own records, including both records maintained at the location where the borrower is applying for the transaction and records maintained at other locations within the state that are owned and operated by the lender; and

(b) **an** available third party ~~databases~~ **data base** provided by **a** private consumer reporting ~~services.~~ **service.**

(5) The department shall monitor the effectiveness of private consumer credit reporting services in providing the verification information required under subsection (4). If the department determines that ~~one (1) or more~~ **a** commercially reasonable ~~methods~~ **method** of verification ~~are~~ **is** available, the department shall:

(a) provide reasonable notice to all lenders identifying the commercially reasonable ~~methods~~ **method** of verification that ~~are~~ **is** available; and

(b) require each lender to use, consistent with the policies of the department, ~~one (1) of~~ the identified commercially reasonable ~~methods~~ **method** of verification as a means of complying with subsection (4).

(6) If a borrower presents evidence to a lender that a loan has been discharged in bankruptcy, the lender shall cause the record of the borrower's loan to be updated in the database described in subsection (4)(b) to reflect the bankruptcy discharge.

(7) A lender shall cause the record of a borrower's loan to be

updated in the database described in subsection (4)(b) to reflect:

(a) presentment of the borrower's check for payment; or

(b) exercise of the borrower's authorization to debit the borrower's account.

If a check is returned or an authorization is dishonored because of insufficient funds in the borrower's account, the lender shall reenter the record of the loan in the database.

(8) A lender shall update information in a database described in subsection (4)(b) to reflect partial payments made on an outstanding loan, the record of which is maintained in the database.

(9) If a lender ceases doing business in Indiana, the director may require ~~one (1) or more operators~~ **the operator** of **the** ~~databases~~ **data base** described in subsection (4)(b) to remove records of the lender's loans from the operator's database.

(10) The director may impose a civil penalty not to exceed one hundred dollars ($100) for each violation of:

(a) this section; or

(b) any rule or policy adopted by the director to implement this section.

(11) The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions concerning effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions concerning civil actions by the department (IC 24-4.5-6-113).

SECTION 16. IC 24-4.5-7-406, AS AMENDED BY P.L.57-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 406. ~~(a)~~ **(1)** An agreement with respect to a small loan may not provide for charges as a result of default by the borrower other than those specifically authorized by this chapter. A provision in a small loan agreement in violation of this section is unenforceable.

~~(b)~~ **(2)** A lender **or an assignee of a small loan** may seek only the following remedies upon default by a borrower:

~~(1)~~ **(a)** Recovery of:

~~(A)~~ **(i)** the contracted principal amount of the loan; and

~~(B)~~ **(ii)** the loan finance charge.

~~(2)~~ **(b)** Collection of a fee for:

~~(A)~~ **(i)** a returned check, negotiable order of withdrawal, or share draft; or

~~(B)~~ **(ii)** a dishonored authorization to debit the borrower's account;

if contracted for under section 202 of this chapter.

~~(3)~~ **(c)** Collection of postjudgment interest, if awarded by a court.

~~(4)~~ **(d)** Collection of court costs, if awarded by a court.

~~(c)~~ **(3)** A lender **or an assignee of a small loan** may not seek any of the following damages or remedies upon default by a borrower:

~~(1)~~ **(a)** Payment of the lender's attorney's fees.

~~(2)~~ **(b)** Treble damages.

~~(3)~~ **(c)** Prejudgment interest.

~~(4)~~ **(d)** Damages allowed for dishonored checks under any statute other than this chapter.

~~(5)~~ **(e)** Any damages or remedies not set forth in subsection ~~(b).~~ **(2).**

~~(d)~~ **(4)** A contractual agreement in a small loan transaction must include a notice of the following in 14 point bold type:

~~(1)~~ **(a)** The remedies available to a lender **or an assignee** under subsection ~~(b).~~ **(2).**

~~(2)~~ **(b)** The remedies and damages that a lender **or an assignee** is prohibited from seeking in a small loan transaction under subsection ~~(c).~~ **(3).**

SECTION 17. IC 24-4.5-7-409, AS AMENDED BY P.L.57-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 409. (1) This section applies to licensees and unlicensed persons.

(2) A person who violates this chapter:

~~(a) is subject to a civil penalty up to two thousand dollars ($2,000) imposed by the department;~~

~~(b)~~ **(a)** is subject to the remedies provided in IC 24-4.5-5-202;

~~(c)~~ **(b)** commits a deceptive act under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5;

~~(d)~~ **(c)** has no right to collect, receive, or retain any principal, interest, or other charges from a small loan; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation; and

~~(e)~~ **(d)** is liable to the borrower for actual damages, statutory damages of two thousand dollars ($2,000) per violation, costs, and attorney's fees; however, this subdivision does not apply if the

violation is the result of an accident or bona fide error of computation.

The remedies described in this subsection are in addition to all other remedies set forth in this article.

(3) The department may sue:

(a) to enjoin any conduct that constitutes or will constitute a violation of this chapter; and

(b) for other equitable relief.

(4) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a borrower. A borrower is not required to exhaust any administrative remedies under this section or any other applicable law.

SECTION 18. IC 24-4.5-7-410, AS AMENDED BY P.L.57-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 410. A lender making small loans, **or an assignee of a small loan,** shall not commit nor cause to be committed any of the following acts:

(a) Threatening to use or using the criminal process in any state to collect on a small loan.

(b) Threatening to take action against a borrower that is prohibited by this chapter.

(c) Making a misleading or deceptive statement regarding a small loan or a consequence of taking a small loan.

(d) Contracting for or collecting attorney's fees on small loans made under this chapter.

(e) Altering the date or any other information on a check or an authorization to debit the borrower's account held as security.

(f) Using a device or agreement that the department determines would have the effect of charging or collecting more fees, charges, or interest than allowed by this chapter, including, but not limited to:

(i) entering a different type of transaction with the borrower;

(ii) entering into a sales/leaseback arrangement;

(iii) catalog sales;

(iv) entering into transactions in which a customer receives a purported cash rebate that is advanced by someone offering Internet content services, or some other product or service, when the cash rebate does not represent a discount or an

adjustment of the purchase price for the product or service; or

(v) entering any other transaction with the borrower that is designed to evade the applicability of this chapter.

(g) Engaging in unfair, deceptive, or fraudulent practices in the making or collecting of a small loan.

(h) Charging to cash a check representing the proceeds of a small loan.

(i) Except as otherwise provided in this chapter:

(i) accepting the proceeds of a new small loan as payment of an existing small loan provided by the same lender; or

(ii) renewing, refinancing, or consolidating a small loan with the proceeds of another small loan made by the same lender.

(j) Including any of the following provisions in a loan document:

(i) A hold harmless clause.

(ii) A confession of judgment clause.

(iii) A mandatory arbitration clause, unless the terms and conditions of the arbitration have been approved by the director of the department.

(iv) An assignment of or order for payment of wages or other compensation for services.

(v) A provision in which the borrower agrees not to assert a claim or defense arising out of contract.

(vi) A waiver of any provision of this chapter.

(k) Selling insurance of any kind in connection with the making or collecting of a small loan.

(l) Entering into a renewal with a borrower.

SECTION 19. IC 24-7-1-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. This article does not apply to the rental of a musical instrument through an elementary or a secondary school.**

SECTION 20. IC 28-1-2-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30.5. (a) This section applies to the following:**

(1) Any:

(A) financial institution;

(B) person required to file notification with the department under IC 24-4.5-6-202;

(C) person subject to IC 24-7; or

(D) other person subject to regulation by the department under this title.

(2) Any person licensed or required to be licensed under IC 24-4.5.

(b) As used in this section, "customer", with respect to a person described in subsection (a), means an individual consumer, or the individual's legal representative, who obtains or has obtained from the person a financial:

(1) product; or

(2) service;

that is to be used primarily for personal, family, or household purposes. The term does not include an affiliate of the person.

(c) As used in this section, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

(d) As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

(e) As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

(2) a driver's license number;

(3) a state identification number; or

(4) an account number;

are accessible as part of the personal information.

(f) As used in this chapter, "personal records" means any records that:

(1) are maintained, whether as a paper record or in an electronic or a computerized form, by a person to whom this section applies; and

(2) contain the unencrypted, unredacted personal information of one (1) or more customers or potential customers.

(g) A person to whom this section applies shall keep and handle personal records in a manner that:

(1) reasonably safeguards the personal records from destruction, theft, or other loss; and

(2) protects the personal records from misuse.

(h) If a breach of the security of any personal records occurs, the person maintaining the records is subject to the disclosure requirements under IC 24-4.9-3, unless the person is exempt from the disclosure requirements under IC 24-4.9-3-4.

(i) A person to whom this section applies may not dispose of personal records without first:

(1) shredding, incinerating, or mutilating the personal records; or

(2) erasing or otherwise rendering illegible or unusable the personal information contained in the records.

(j) If a person to whom this section applies ceases doing business, the person shall, as part of the winding up of the business, safeguard any personal records maintained by the person in accordance with this section until such time as the person is entitled or required to destroy the records under:

(1) applicable law; or

(2) the person's own records maintenance policies.

SECTION 21. IC 28-1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) After the resolutions approving a joint agreement of merger have been adopted by the board of directors of each of the corporations, such resolutions and joint agreement shall be submitted for approval by the department. ~~before the joint agreement is submitted to a vote of the shareholders of the corporations.~~ The department may, in its discretion, approve or disapprove the resolution and joint agreement.

(b) In deciding whether to approve or disapprove a resolution and joint agreement under this section, the department shall consider the following factors:

(1) Whether the institutions subject to the proposed transaction are operated in a safe, sound, and prudent manner.

(2) Whether the financial condition of any institution subject to the proposed transaction will jeopardize the financial stability of any other institutions subject to the proposed transaction.

(3) Whether the proposed transaction under this chapter will result in an institution that has inadequate capital, unsatisfactory management, or poor earnings prospects.

(4) Whether the management or other principals of the institution that will result from the proposed transaction under this chapter are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting institution.

(5) Whether the public convenience and advantage will be served by the resulting institution after the proposed transaction.

(6) Whether the institutions subject to the proposed transaction under this chapter furnish all the information the department requires in reaching the department's decision.

SECTION 22. IC 28-1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~If~~ The agreement of merger ~~is approved by the department, it~~ shall be submitted to a vote of the shareholders of each corporation, at the meeting directed by the resolution of the board of directors of each corporation, and the agreement shall be adopted by each corporation upon receiving the affirmative votes of the holders of a majority of the outstanding shares of the capital stock of the corporation. A mutual savings association or mutual savings bank shall adopt the agreement upon receiving the affirmative vote of fifty-one percent (51%) or more of the votes cast at

the meeting called to consider such agreement of merger.

SECTION 23. IC 28-1-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) After the resolution approving a joint agreement of consolidation has been adopted by the board of directors of each of the corporations, the resolutions and joint agreement shall be submitted to the department. ~~for approval before the joint agreement is submitted to a vote of the shareholders of the corporations.~~ The department may, in its discretion, approve or disapprove the resolutions and joint agreement.

(b) In deciding whether to approve or disapprove a transaction under this chapter, the department shall consider the following factors:

(1) Whether the institutions subject to the proposed transaction are operated in a safe, sound, and prudent manner.

(2) Whether the financial condition of any institution subject to the proposed transaction will jeopardize the financial stability of any other institutions subject to the proposed transaction.

(3) Whether the proposed transaction under this chapter will result in an institution that has inadequate capital, unsatisfactory management, or poor earnings prospects.

(4) Whether the management or other principals of the institution that will result from the proposed transaction under this chapter are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting institution.

(5) Whether the public convenience and advantage will be served by the resulting institution after the proposed transaction.

(6) Whether the institutions subject to the proposed transaction under this chapter furnish all the information the department requires in reaching the department's decision.

SECTION 24. IC 28-1-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. ~~If~~ The agreement of consolidation ~~is approved by the department, it~~ shall be submitted to a vote of the shareholders of each corporation and shall be adopted upon receiving the same affirmative votes, and the adoption shall be followed by the same notice to shareholders as is prescribed in sections 3, 5, and 6 of this chapter, as if the consolidation were a merger.

SECTION 25. IC 28-1-13-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. As used in this chapter, "loans and extensions of credit" ~~includes all direct or indirect~~

~~advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person. To the extent specified by the department, the term includes any liability of a bank to advance funds to or on behalf of a person under a contractual commitment.~~ **has the meaning set forth in 12 CFR 32.2.**

SECTION 26. IC 28-1-20-4, AS AMENDED BY P.L.57-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Except as provided in subsections (c), (d), (g), ~~and (k),~~ **and (o),** it is unlawful for any person, firm, limited liability company, or corporation (other than a bank or trust company, a bank holding company, a subsidiary of a bank or trust company, a subsidiary of a bank holding company, a subsidiary of a savings bank, **or** a subsidiary of a savings association ~~or a corporate fiduciary~~ organized or reorganized under IC 28 or statutes in effect at the time of organization or reorganization or under the laws of the United States):

(1) to use the word "bank", "banc", or "banco" as a part of the name or title of the person, firm, **limited liability company,** or corporation; or

(2) to advertise or represent the person, firm, limited liability company, or corporation to the public:

(A) as a bank or trust company or a corporate fiduciary; or

(B) as affording the services or performing the duties which by law only a bank or trust company or a corporate fiduciary is entitled to afford and perform.

(b) A financial institution organized under the laws of any state or the United States is authorized to do business in Indiana:

(1) at its principal office;

(2) at any branch office; or

(3) otherwise;

using a name other than its official entity name if the financial institution notifies the department at least ten (10) days before using the other name.

(c) Notwithstanding the prohibitions of this section, an out-of-state financial institution with the word "bank" in its legal name may use the word "bank" if the financial institution is insured by the Federal Deposit Insurance Corporation or its successor.

(d) Notwithstanding subsection (a), a building and loan association

organized under IC 28-4 (before its repeal) may include in its name or title:

(1) the words "savings bank"; or

(2) the word "bank" if the name or title also includes either the words "savings bank" or letters "SB".

A building and loan association that includes "savings bank" in its title under this section does not by that action become a savings bank for purposes of IC 28-6.1.

(e) The name or title of a savings bank governed by IC 28-6.1 must include the words "savings bank" or the letters "SB".

(f) A savings association may include in its name the words "building and loan association".

(g) Notwithstanding subsection (a), a bank holding company (as defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a part of its name. However, this subsection does not permit a bank holding company to advertise or represent itself to the public as affording the services or performing the duties that by law a bank or trust company only is entitled to afford and perform.

(h) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank", "banc", or "banco" in its title or holds itself out as a bank, corporate fiduciary, or trust company for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

(i) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or

corporation that improperly holds itself out as a financial institution.

(j) A person, firm, limited liability company, or corporation who violates this section is subject to a penalty of five hundred dollars ($500) per day for each and every day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(k) The word "bank", "banc", or "banco" may not be included in the name of a corporate fiduciary.

(l) A person, firm, limited liability company, or corporation may not use the name of an existing ~~bank or bank holding company~~ **depository financial institution or holding company of a depository financial institution,** or a name confusingly similar to that of an existing ~~bank or bank holding company~~ **depository financial institution or holding company of a depository financial institution,** when marketing to or soliciting business from a customer or prospective customer if the reference to the existing ~~bank or bank holding company~~ **depository financial institution or holding company of a depository financial institution** is:

(1) without the consent of the existing ~~bank or bank holding company;~~ **depository financial institution or holding company of a depository financial institution;** and

(2) in a manner that could cause a reasonable person to believe that the marketing material or solicitation:

(A) originated from;

(B) is endorsed by; or

(C) is in any other way the responsibility of;

the existing ~~bank or bank holding company~~ **depository financial institution or holding company of a depository financial institution.**

(m) An existing ~~bank or bank holding company~~ **depository financial institution or holding company of a depository financial institution** may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm, limited liability company, or corporation persists in

using the marketing material or solicitation, the department may impose a civil penalty of up to fifteen thousand dollars ($15,000) for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer constitutes a separate violation of subsection (l).

(n) Nothing in subsection (l) or (m) prohibits the use of or reference to the name of an existing ~~bank or bank holding company~~ **depository financial institution or holding company of a depository financial institution** in marketing materials or solicitations, if the use or reference does not deceive or confuse a reasonable person regarding whether the marketing material or solicitation:

(1) originated from;

(2) is endorsed by; or

(3) is in any other way the responsibility of;

the existing ~~bank or bank holding company.~~ **depository financial institution or holding company of a depository financial institution.**

(o) A person, firm, limited liability company, or corporation may use the word "bank", "banc", or "banco" if it would not create a substantial likelihood of misleading the public by implying that the person, firm, limited liability company, or corporation is a state or federally chartered bank or savings bank.

(p) As used in this section, "depository financial institution" has the meaning set forth in IC 28-1-1-6.

~~(o)~~ **(q)** The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 27. IC 28-1-29-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The following words, when used in this chapter, shall have the meaning ascribed to them unless the context clearly requires a different meaning:

(1) "Person" includes individuals, **sole proprietorships,** partnerships, ~~associations,~~ limited liability ~~company, and~~ **companies, trusts, joint ventures,** corporations, **unincorporated organizations, and other entities, however organized.**

(2) ~~"Budget service company"~~ **"Debt management company"** is any person doing business as a budget counseling, credit counseling, debt management, or debt pooling service or holding ~~himself~~ **the person** out, by words of similar import, as providing services to debtors in the management of their finances and debts,

and contracting with the debtor for a fee to receive from the debtor and disburse money or anything of value. ~~"Budget service company"~~ **The term** includes **the following:**

(A) An entity that simply holds any check, personal check, money order, personal money order, draft, or any other instrument for the transmission of money.

(B) A person or an entity known as a "budget service company".

(3) "License" means a license issued under the provisions of this chapter.

(4) "Licensee" means any person to whom a license has been issued pursuant to the provisions of this chapter.

(5) "Contract debtor" means a debtor who has entered into a contract with a licensee.

(6) "Debt" means an obligation arising out of personal, family, or household use.

(7) "Debtor" means an individual whose principal debts and obligations arise out of personal, family, or household use and shall not apply to persons whose principal indebtedness arises out of business purpose transactions.

(8) "Department" means the members of the department of financial institutions.

(9) "Finances" means a savings deposit that is:

(A) made on behalf of a contract debtor;

(B) owned and controlled exclusively by the contract debtor and not a licensee who has a power of attorney of the contract debtor; and

(C) placed in a bank or savings institution chartered by the state or federal government.

SECTION 28. IC 28-1-29-3, AS AMENDED BY P.L.217-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) No person shall operate a ~~budget service~~ **debt management** company in Indiana without having obtained a license from the department. For purposes of this section, a person is operating in Indiana if:

(1) the person or any of the person's employees or agents are located in Indiana; or

(2) the person:

(A) contracts with debtors who are residents of Indiana; or

(B) solicits business from residents of Indiana by advertisements or other communications sent or delivered through any of the following means:

(i) Mail.

(ii) Personal delivery.

(iii) Telephone.

(iv) Radio.

(v) Television.

(vi) The Internet or other electronic communications.

(vii) Any other means of communication.

(b) The director may request evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(c) For purposes of subsection (b), evidence of compliance with this section may include:

(1) criminal background checks, including a national criminal history **background** check **(as defined in IC 10-13-3-12)** by the Federal Bureau of Investigation **for any individual described in section 5(b)(2) or 5(b)(3) of this chapter;**

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (b). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(d) The fee for a license or renewal shall be fixed by the department under IC 28-11-3-5 and shall be nonrefundable. ~~A licensee failing to~~

~~renew annually shall be required to pay~~ **The department may impose** a fee ~~fixed by the department~~ under IC 28-11-3-5 for ~~a new application.~~ **each day that a renewal fee due and payable under this subsection is delinquent.**

(e) If a person knowingly acts as a ~~budget service~~ **debt management** company in violation of this chapter, any agreement the person has made under this chapter is void and the debtor under the agreement is not obligated to pay any fees. If the debtor has paid any amounts to the person, the debtor, or the department on behalf of the debtor, may recover the payment from the person that violated this section.

(f) A license issued under this section is not assignable or transferable.

SECTION 29. IC 28-1-29-5, AS AMENDED BY P.L.217-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Every person doing business as a ~~budget service~~ **debt management** company shall make application to the department for a license to engage in such business. Such application shall be in the form prescribed by the department and shall contain such information as the department may require.

(b) The department may not issue a license unless the department finds that the financial responsibility, character, and fitness of:

(1) the applicant **and any significant affiliate of the applicant;** ~~and~~

~~(2) the: (A) members of the applicant, if the applicant is a partnership or association; or (B) officers and directors of the applicant, if the applicant is a corporation;~~

(2) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(3) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

warrant belief that the business will be operated honestly and fairly under this article. The department is entitled to request evidence of an applicant's financial responsibility, character, and fitness.

(c) An application submitted under this section must indicate

whether ~~(1)~~ any ~~(A) members of the applicant, if the applicant is a partnership or association; or (B) officers and directors of the applicant, if the applicant is a corporation;~~ **individuals described in subsection (b)(2) or (b)(3):**

(1) are, at the time of the application, under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; ~~and~~ **or**

(2) ~~any: (A) members of the applicant, if the applicant is a partnership or association; or (B) officers and directors of the applicant, if the applicant is a corporation;~~ have been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(d) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(e) Upon written request, an applicant is entitled to a hearing under IC 4-21.5 on the question of the qualifications of the applicant for a license.

SECTION 30. IC 28-1-29-7.5, AS ADDED BY P.L.217-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any of the following apply:

(1) Any ~~(A) members of the licensee, if the licensee is a partnership or association; or (B) officers and directors of the licensee, if the licensee is a corporation;~~ **individuals described in section 5(b)(2) or 5(b)(3) of this chapter** are under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(2) Any ~~(A) members of the licensee, if the licensee is a partnership or association; or (B) officers and directors of the licensee, if the licensee is a corporation;~~ **individuals described in section 5(b)(2) or 5(b)(3) of this chapter** have been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 5(c) of this chapter:

(1) not later than thirty (30) days after any person described in subsection (a):

(A) has been put on notice of the indictment; or

(B) has been convicted of or pleaded guilty or nolo contendere to the felony;

whichever applies; or

(2) if the licensee's next license renewal fee under section 3(c) of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 3(d) of this chapter.

SECTION 31. IC 28-1-29-8, AS AMENDED BY P.L.217-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A licensee shall deliver to every contract debtor, at the time the contract is made, a copy of the contract, showing the:

(1) date executed;

(2) rate of charge the licensee will impose;

(3) initial set up fee;

(4) cancellation fee;

(5) amount of debts claimed by the contract debtor to be due the contract debtor's creditors;

(6) total amount of fee to be assessed by the licensee, including the initial set up fee, but excluding the cancellation fee; and

(7) total amount of debt to be repaid under the contract;

and shall immediately notify all creditors of the licensee's and debtor's relationship. The contract shall specify the schedule of payments from the debtor under the debt program.

(b) A ~~license~~ **licensee** may take no fee unless a debt program or a finance program, or both, agreed upon by the licensee and the contract debtor, has been arranged. All creditors must be notified of the debtor's and licensee's relationship. Acceptance of a program payment constitutes agreement by the creditor to the program.

(c) A licensee shall give to the contract debtor a dated receipt for each payment, at the time of the payment, unless the payment is made by check, money order, or direct deposit.

(d) A licensee shall, upon cancellation by a contract debtor of the

contract, notify immediately in writing all creditors of contract debtor.

(e) A licensee shall maintain in the licensee's business such books, accounts, and records as will enable the department or the attorney general to determine whether such license is complying with this chapter. Such books, accounts, and records shall be preserved for at least three (3) years after making the final entry of any contract recorded therein. **A licensee is subject to IC 28-1-2-30.5 with respect to any records maintained by the licensee.**

(f) A licensee may not, except as provided in subsection (g), receive a fee from the contract debtor for services in excess of fifteen percent (15%) of the amount **of the debt payable to creditors that** the debtor agrees to pay through the licensee, divided into equal monthly payments over the term of the contract. The total monthly amount of fees paid by the contract debtor to the licensee plus the fair share fees paid by the contract debtor's creditors to the licensee shall not exceed twenty percent (20%) of the monthly amount the debtor agrees to pay through the licensee. The accrual method of accounting shall apply to the creditor's fair share fees received by the licensee. The program fee may be charged for any one (1) month or part of a month. As a portion of the total fees and charges stated in the contract, the licensee may require the debtor to pay a maximum initial payment of fifty dollars ($50). The initial payment must be deducted from the total contract fees and charges to determine the monthly amortizable amount for subsequent fees. Unless approved by the department, the licensee may not retain in the debtor's trust account, for charges, an amount greater than one (1) month's fee plus the close-out fee. Any fee charged by the licensee to the debtor under this section for services rendered by the licensee, other than the amount pursuant to subsection (g), is not considered a debt owed by the debtor to the licensee.

(g) Upon:

(1) cancellation of the contract by a contract debtor; or

(2) termination of payments by a contract debtor;

a licensee may not withhold for the licensee's own benefit, in addition to the amounts specified in subsection (f), more than one hundred dollars ($100), which may be accrued as a close-out fee. The licensee may not charge the contract debtor more than one (1) set up fee or cancellation fee, or both, unless the contract debtor leaves the services of the licensee for more than six (6) months.

(h) A licensee may not enter into a contract with a debtor unless a thorough, written budget analysis of the debtor indicates that the debtor can reasonably meet the payments required under a proposed debt program or finance program.

(i) A licensee may not enter into a contract with a contract debtor for a period longer than twenty-four (24) months.

(j) A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services;

from the location in question is not contrary to the best interests of the licensee's contract debtors.

(k) A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors.

(l) A licensee may assess a charge not to exceed twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the contract debtor.

SECTION 32. IC 28-1-29-10, AS AMENDED BY P.L.57-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The department may examine all books, records, and accounts of any person doing business as a ~~budget service~~ **debt management** company at least once a year. The cost of such examination will be paid by the company upon a fee basis fixed by the department under IC 28-11-3-5. The record keeping system of a licensee shall be made available in Indiana for examination. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. For the purpose of discovering violations of this chapter and securing information necessary for the enforcement of this chapter, the department may investigate:

(1) a licensee; or

(2) a person that the department suspects is operating without a valid license or in violation of this chapter.

SECTION 33. IC 28-1-29-12, AS AMENDED BY P.L.217-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. This chapter does not apply to any attorney at law authorized to practice in this state, or to any individual, partnership, association, limited liability company, or corporation doing business or operating in this state as a trust company or building and loan association, licensed lending institution, court appointed receivers, trustees in bankruptcy, or any not-for-profit corporation providing the services of a ~~budget service~~ **debt management** company which does not charge the debtor any fee for such services, other than fees that are:

(1) incurred and documented by the person in the course of providing the services, such as fees for postage or fees paid to a third party; and

(2) bona fide and reasonable, as may be defined by a policy or rule of the department.

SECTION 34. IC 28-2-13-22.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22.6. (a) As used in this chapter, "school" means:**

(1) an elementary school (as defined in IC 20-18-2-4); or

(2) a secondary school (as defined in IC 20-18-2-18).

The term includes a public school (as defined in IC 20-18-2-15) or a nonpublic school (as defined in IC 20-18-2-12).

(b) A state bank is entitled to establish an intermittent facility on the premises of a school in Indiana for the purpose of offering limited account services as an educational tool for students.

(c) The services that may be offered at an intermittent facility established under this section include:

(1) the opening of accounts;

(2) the acceptance of deposits; and

(3) other services determined by the department.

(d) To establish an intermittent facility under this section, a state bank is not required to submit an application to the department. However, before establishing an intermittent facility under this section, a state bank must:

(1) obtain the written permission of:

(A) the governing body of the school corporation, for a public school; or

(B) the equivalent authority for a nonpublic school;

for the establishment and operation of the facility on the premises of the school; and

(2) notify the department in writing of the intention of the state bank to establish the intermittent facility.

(e) A written notice provided to the department under subsection (d)(2) must:

(1) be in the form; and

(2) contain the information;

prescribed by the department.

(f) An intermittent facility operated by a state bank under this section:

(1) may be operated only during the school year; and

(2) must meet all other requirements of state law applying to state banks.

SECTION 35. IC 28-2-14-18, AS AMENDED BY P.L.217-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) As used in this section, "affiliate" includes the following:

(1) A financial institution.

(2) Any company that controls a financial institution and any other company that is controlled by the company that controls a financial institution.

(3) A bank subsidiary of a financial institution.

(4) Any company:

(A) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the financial institution or any company that controls the financial institution; or

(B) in which a majority of the company's directors or trustees constitute a majority of the persons holding any such office with a financial institution or any company that controls the financial institution.

(5) Any:

(A) company, including a real estate investment trust, that is

sponsored and advised on a contractual basis by the financial institution or any subsidiary or affiliate of the financial institution; or

(B) investment company with respect to which a financial institution or any affiliate of a financial institution is an investment advisor (as defined in section 2(a)(20) of the Investment Company Act of 1940 (15 U.S.C. 80a)).

(6) Any company that the department determines by regulation or order to have a relationship with the financial institution or any subsidiary or affiliate of the financial institution, such that covered transactions by the financial institution or its subsidiary with that company may be affected by the relationship to the detriment of the financial institution or its subsidiary.

(b) The term "affiliate" does not include the following:

(1) Any company engaged solely in holding the premises of the financial institution.

(2) Any company engaged solely in conducting a safe deposit business.

(3) Any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest.

(4) Any company whose control of a financial institution results from the exercise of rights arising from a bona fide debt previously contracted for. The exemption provided by this subdivision applies only:

(A) for the period specifically authorized under applicable state or federal law or regulation; or

(B) in the absence of a law or regulation described in clause (A), for a period of two (2) years after:

(i) the date of the company's exercise of the rights arising from the debt; or

(ii) the effective date of the company's action under item (i); whichever is later.

Upon application by the company or the financial institution, the department may authorize, for good cause shown, an extension of the period of exemption allowed under this subdivision. Extensions granted by the department under this subdivision may not exceed three (3) years in total.

(c) As used in this section, "financial institution" means any of the following that is organized or reorganized under the laws of the United States or any state (as defined in IC 28-2-17-19) and that has been granted fiduciary powers:

(1) A bank.

(2) A bank and trust company.

(3) A savings bank.

(4) A trust company.

(5) A corporate fiduciary.

(6) An industrial loan and investment company.

(7) A savings association.

(8) A bank of discount and deposit.

(9) A loan and trust and safe deposit company.

(d) As used in this section, "trust business" means all rights, powers, and duties granted to or imposed on a financial institution in the exercise of its fiduciary powers, including the following:

(1) The authority to act as:

(A) the administrator, coadministrator, executor, coexecutor, trustee, or cotrustee of or in respect to any estate or trust;

(B) the guardian of any person or estate that is being administered under Indiana law;

(C) an agent;

(D) a custodian (including custodian under the Indiana Uniform Gifts to Minors Act); or

(E) an attorney-in-fact.

The authority conferred by this subdivision includes any other duties, powers, and appointments regularly administered by, granted to, or conferred upon trust departments established and maintained under IC 28-1-12-3(a) or the departments of national banks and other financial institutions that are authorized to exercise fiduciary powers.

(2) All rights, powers, and duties arising from having been named or designated in any capacity described in subdivision (1) in any will or other writing whenever executed, including wills and other writings naming the predecessor affiliate that are executed after the effective date of the resolution anticipated by subsection (e).

(e) The board of directors of any bank holding company or other company that controls a financial institution may adopt a resolution to

cause an ~~affiliate it controls~~ **affiliated financial institution** to succeed to part or all of the trust business of another affiliate it controls. If a financial institution is not controlled by another company, the board of directors of the financial institution may adopt a resolution to cause part or all of its trust business to succeed to an ~~affiliate.~~ **affiliated financial institution.** If the board of directors adopts such a resolution and files a certified copy of it as required by subsection (f), the successor affiliate becomes successor fiduciary in place of the predecessor affiliate with all the rights, powers, and duties that were granted to or imposed on the predecessor affiliate. The rights, powers, and duties vest in the successor affiliate, after the taking effect of the succession, irrespective of the date upon which the relation is established, and irrespective of the date of any related written agreement establishing the relationship or of the date of the death of any decedent whose estate is being so administered. Nothing done in connection with the succession effects a renunciation or revocation of any letters of administration or letters testamentary pertaining to the relation, nor does it effect a removal or resignation from the executorship, trusteeship, or other fiduciary relationship.

(f) If a resolution is adopted under this section, the board of directors shall file a certified copy of the resolution with the department. The board of directors may file the copy in person or by certified mail. The effective date of the succession to part or all of the trust business, as set forth in the resolution, is the date provided in the resolution, which must not be before or more than thirty (30) days after the date of filing of the resolution. If the resolution provides no effective date, the effective date is the date of filing.

SECTION 36. IC 28-5-1-4, AS AMENDED BY P.L.141-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section:

"Automated teller facility" means electronic or mechanical equipment that performs routine transactions for the public at locations off premises of the principal office or branch office of a company that holds a certificate to engage in business under this chapter and that is authorized to issue, negotiate, and sell certificates of investment or indebtedness.

"Branch" means any office, agency, mobile unit, messenger service, or other place of business at which:

(1) ~~payments into certificates of investment or indebtedness~~ **deposits** are received;

(2) ~~checks,~~ negotiable or transferable instruments or orders, or similar instruments, are paid; or

(3) money is lent.

However, the term does not include the principal office of a company or an automated teller facility.

"Financial institution" has the same meaning as in IC 28-1-1-3.

(b) Any domestic corporation organized under the general corporation laws of Indiana may engage in business as an industrial loan and investment company subject to the limitations and restrictions set forth in this chapter. The department may issue a certificate authorizing a corporation to engage in business under this chapter after the department considers and investigates all the following:

(1) The financial standing and character of the incorporators, organizers, directors, principal shareholders, or controlling corporations.

(2) The character, qualifications, and experience of the officers and directors of the corporation.

(3) The future earnings prospects for the proposed corporation in the community in which the corporation will be located.

(4) The adequacy of the corporation's capital.

If the department determines any of the factors described in subdivisions (1) through (4) unfavorably, the department may not issue a certificate authorizing the corporation to engage in business under this chapter. Certificates issued under this section must state whether the corporation is authorized to ~~issue, negotiate, and sell certificates of investment or indebtedness,~~ **accept deposits** and, if not, must provide that the corporation may do business under this article only as restricted by section 21 of this chapter.

(c) Any company that is authorized to ~~issue, negotiate, and sell certificates of investment or indebtedness~~ **accept deposits** and that holds a certificate to engage in business under this chapter is entitled to establish one (1) or more branches de novo and one (1) or more branches by acquisition in any location or locations within Indiana, at which any business of the company may be transacted to the same extent as at the principal office of the company.

(d) As a condition to the establishment and operation of a branch or

branches under this section, the company must:

(1) obtain prior written approval of the department;

(2) operate each branch under the correct name of the company and its name must contain in addition the word "branch"; and

(3) demonstrate that the applicant company will have adequate capital, sound management, and adequate future earnings prospects after the establishment of the branch.

(e) The location of the principal office or any branch established under this section may be changed at any time when authorized by the board of directors of the company and approved by the department.

(f) Any company desiring to open or establish one (1) or more branches or change location of an existing branch or the principal office must file a written application therefor, in such form and containing such information as may be prescribed by the department. If the department determines that the requirements of subsection (d) have been satisfied, the department may in its discretion approve the application.

(g) A company is entitled to open or establish an automated teller facility in any location within Indiana or as permitted by the laws of the state in which the automated teller machine is to be located. An automated teller facility may be owned or operated individually by any company or jointly on a cost sharing or fee basis.

(h) A branch by acquisition may be established under this section only if done in compliance with applicable provisions of IC 28-1-7 or IC 28-1-8.

(i) A company that is authorized to ~~issue, negotiate, and sell certificates of investment or indebtedness~~ **accept deposits** and that holds a certificate to engage in business under this chapter is entitled to establish one (1) or more branches de novo and one (1) or more branches by acquisition in any location outside Indiana. Any business of the company may be transacted at a branch established under this subsection to the same extent as at the principal office of the company, subject to IC 28-2-18-19.

SECTION 37. IC 28-5-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. A company may not engage in the banking or trust business, operate a savings bank, commercial bank or trust company, advertise or hold itself out to the public as a bank, savings bank or trust company, or use the word

"bank" in connection with its name or business in any of its advertising or literature. A company may not accept deposits or "savings accounts" or advertise or hold itself out to the public as accepting deposits of money or "savings accounts", unless the company maintains federal deposit insurance, as authorized by section ~~6(a)(17)~~ **6(a)(16)** of this chapter. A company may not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or calculated to deceive. If any company refers in any advertising matter to the rate of charge upon loans to be made by it, the department may require such company to state such rate of charge fully and clearly in such manner as it may deem necessary to prevent misunderstanding thereof by prospective borrowers. The department may order any company to desist from any conduct which it shall find to be a violation of this section.

SECTION 38. IC 28-6.2-1-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.1. "Federal mutual holding company" means a mutual savings bank holding company that:**

(1) is organized or reorganized under the laws of the United States;

(2) is regulated by the Office of Thrift Supervision or its successor; and

(3) has control over a savings bank.

SECTION 39. IC 28-6.2-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. A mutual savings bank may, upon application to and with the approval by the department and the Office of Thrift Supervision, reorganize as a federal mutual holding company by undertaking a transaction or series of transactions substantially similar to those set forth in section 1 of this chapter.**

SECTION 40. IC 28-7-1-0.5, AS AMENDED BY P.L.217-2007, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Automated teller machine" (ATM) means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized individuals.

(2) "Branch office" means an office, agency, or other place of business at which deposits are received, share drafts are paid, or money is lent to members of a credit union. The term does not include:

(A) the principal office of a credit union;

(B) the principal office of a credit union affiliate;

(C) a branch office of a credit union affiliate;

(D) an automated teller machine; or

(E) a night depository.

(3) "Credit union" is a cooperative, nonprofit association, incorporated under this chapter, for the purposes of educating its members in the concepts of thrift and to encourage savings among its members. A credit union should provide a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to use and control their own money in order to improve their economic and social condition.

(4) "Department" refers to the department of financial institutions.

(5) "Surplus" means the credit balance of undivided earnings after losses. The term does not include statutory reserves.

(6) "Unimpaired shares" means paid in shares less any losses for which no reserve exists and for which there is no charge against undivided earnings.

(7) "Related credit union service organization" means, in reference to a credit union, a credit union service organization in which the credit union has invested under section 9(3)(J) of this chapter.

(8) "Premises" means any office, branch office, suboffice, service center, parking lot, real estate, or other facility where the credit union transacts or will transact business.

(9) "Furniture, fixtures, and equipment" means office furnishings, office machines, computer hardware, computer software, automated terminals, and heating and cooling equipment.

(10) "Fixed assets" means:

(A) premises; and

(B) furniture, fixtures, and equipment.

(11) "Audit period" means a twelve (12) month period designated by the board of directors of a credit union.

(12) "Community" means:

(A) a second class city;

(B) a third class city;

(C) a town;

(D) a county other than a county containing a consolidated city;

(E) a census tract;

(F) a township; or

(G) any other municipal corporation (as defined in IC 36-1-2-10).

(13) "Control of a related interest" refers to a situation in which an individual directly or indirectly, or through or in concert with one (1) or more other individuals, possesses any of the following:

(A) The ownership of, control of, or power to vote at least twenty-five percent (25%) of any class of voting securities of the related interest.

(B) The control in any manner of the election of a majority of the directors of the related interest.

(C) The power to exercise a controlling influence over the management or policies of the related interest. For purposes of this clause, an individual is presumed to have control, including the power to exercise a controlling influence over the management or policies of a related interest, if the individual:

(i) is an executive officer or a director of the related interest and directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest; or

(ii) directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest and no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

(14) "Executive officer" includes any of the following officers of a credit union:

(A) The chairman of the board of directors.

(B) The president.
(C) A vice president.
(D) The cashier.
(E) The secretary.
(F) The treasurer.

(15) "Immediate family", for purposes of section 17.1 of this chapter, means the spouse of an individual, the individual's minor children, and any of the individual's children, including adults, residing in the individual's home.

(16) "Officer" means any individual who participates or has the authority to participate in major policymaking functions of a credit union, regardless of whether:

(A) the individual has an official title;
(B) the individual's title designates the individual as an assistant; or
(C) the individual is serving without salary or other compensation.

(17) "Related interest", with respect to an individual, means:

(A) a partnership, a corporation, or another business organization that is controlled by the individual; or
(B) a political campaign committee:
(i) controlled by the individual; or
(ii) the funds or services of which benefit the individual.

(18) Except as provided in section 9(3)(J) of this chapter, ~~"unimpaired~~ "capital and ~~unimpaired~~ surplus" means the sum of:

(A) undivided profits;
(B) reserve for contingencies;
(C) regular reserve; and
(D) allowance for loan and lease losses.

SECTION 41. IC 28-7-1-9, AS AMENDED BY P.L.217-2007, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to officers, directors, or committee members under section 17.1 of this chapter.

(3) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) Interest-bearing obligations of the FSLIC Resolution Fund and obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(F) In savings and loan associations, other credit unions that are insured under IC 28-7-1-31.5, and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.

(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 712 of the Rules and Regulations of the National Credit Union Administration) with the approval of the department. Not more than ten percent (10%) of the ~~total paid in and unimpaired~~ capital and **surplus and** unimpaired shares of the credit union may be invested

under this clause. However, a credit union may invest more than ten percent (10%) of the ~~total paid in and unimpaired~~ capital and **surplus and** unimpaired shares with the prior approval of the department. ~~For purposes of this clause, "unimpaired capital and unimpaired shares" has the meaning set forth in 12 CFR 700.2.~~

(K) For a credit union that is well capitalized (as defined in Section 702 of the Rules and Regulations of the National Credit Union Administration), investment securities, as may be defined by a policy or rule of the department and subject to the following:

(i) The department may prescribe, by policy or rule, limitations or restrictions on a credit union's investment in investment securities.

(ii) The total amount of any investment securities purchased or held by a credit union may never exceed at any given time ten percent (10%) of the ~~unimpaired~~ capital and surplus of the credit union. However, the limitations imposed by this item do not apply to investments in the direct or indirect obligations of the United States or in the direct obligations of a United States territory or insular possession, or in the direct obligations of the state or any municipal corporation or taxing district in Indiana.

(iii) A credit union may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this item, a security is speculative or has speculative characteristics if at the time of purchase the security is in default or is rated below the first four (4) rating classes by a generally recognized security rating service.

(iv) A credit union may purchase for its own account a security that is not rated by a generally recognized security rating service if the credit union at the time of purchase obtains financial information that is adequate to document the investment quality of the security.

(v) A credit union that purchases a security for its own account shall maintain sufficient records of the security to

allow the security to be properly identified by the department for examination purposes.

(vi) Except as otherwise authorized by this title, a credit union may not purchase any share of stock of a corporation.

(L) Collateralized obligations that are eligible for purchase and sale by federal credit unions. However, a credit union may purchase for its own account and sell the obligations only to the extent that a federal credit union can purchase and sell those obligations.

(4) To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

(5) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.

(6) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.

(7) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.

(8) To charge the member's share account for the actual cost of a necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.

(9) To transfer to an accounts payable account, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of at least two (2) years. The credit union shall not consider the payment of

dividends on the transferred account.

(10) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department.

(11) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.

(12) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

(13) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

(14) To sell and cash negotiable checks, travelers checks, and money orders for members.

(15) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of ~~its unimpaired~~ **the purchasing credit union's** capital and surplus unless special written authorization has been granted by the department.

(16) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(17) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a tax advantaged savings plan which qualifies or qualified for specific tax treatment under Section 223, 401(d), 408, 408A, or 530 of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

(18) To issue shares of its capital stock or insured certificates to

a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

(19) A credit union may exercise any rights and privileges that are:

(A) granted to federal credit unions; but

(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

if the credit union complies with section 9.2 of this chapter.

(20) To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

(21) To purchase assets of another credit union and to assume the liabilities of the selling credit union.

(22) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed twenty percent (20%) of the total assets of that credit union, excluding those public funds.

(23) To join the National Credit Union Administration Central Liquidity Facility.

(24) To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be

limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.001) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

(25) To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

(26) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

(27) Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

SECTION 42. IC 28-7-1-17.1, AS ADDED BY P.L.141-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17.1. (a) ~~Subject to subsection (b),~~ A credit union may make a loan to the credit union's individual ~~officers,~~ directors and committee members under the following terms and conditions:

(1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.

(2) The loan may not be on terms more favorable than those extended to other borrowers.

(3) The borrower may not:

(A) take part in the consideration of; or

(B) vote on;

the borrower's loan application.

(4) Except as provided in subsection (b), a credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the greater of:

(A) five percent (5%) of the credit union's ~~unimpaired~~ capital and surplus; or

(B) twenty-five thousand dollars ($25,000);

unless the loan is first approved by the credit union's board of directors.

(5) A credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(6) ~~Subject to subsection (b),~~ The total amount of all loans made under this section may not exceed the credit union's ~~unimpaired~~ capital and surplus. **However, the limit set forth in this subdivision does not apply to either of the following:**

(A) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.

(B) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.

(b) ~~The limits set forth in subsections~~ **Approval by the board of directors under subsection** (a)(4) ~~and (a)(6) do not apply to any of the following: (1)~~ **is not required for** an extension of credit made under a line of credit approved under subsection (a)(4) if the extension of credit is made not later than fourteen (14) months after the line of credit was approved.

~~(2) A loan, in any amount, to finance the education of an~~

~~individual's child.~~

~~(3) A loan, in any amount, to finance or refinance the purchase, construction, maintenance, or improvement of a residence of the individual, if:~~

~~(A) the loan is secured by a first lien on the residence and the residence is owned, or will be owned after the loan is made, by the individual, and~~

~~(B) in the case of a refinancing, the loan includes only the amount used to repay the original loan, plus any closing costs and any additional amount used for any purpose described in this subdivision.~~

~~(4) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.~~

~~(5) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.~~

~~(6) A loan made to an individual, the individual's immediate family, or the individual's related interests, for any other purpose, if the total amount of loans to the individual, the individual's immediate family, or the individual's related interests under this section does not exceed, at any given time, the greater of:~~

~~(A) two and one-half percent (2.5%) of the credit union's unimpaired capital and unimpaired surplus, or~~

~~(B) twenty-five thousand dollars ($25,000),~~

~~but in no event more than one hundred thousand dollars ($100,000).~~

~~(c) At least quarterly, the president or manager shall prepare and deliver to the board of directors a report listing the outstanding indebtedness of all officers, directors, and committee members. A report prepared under this subsection must be retained at the credit union for three (3) years and shall not be filed with the department unless specifically requested. A report required by this subsection must include:~~

~~(1) the amount of each indebtedness, and~~

~~(2) a description of the terms and conditions of each loan, including:~~

~~(A) the interest rate,~~

~~(B) the original amount and date of the loan;~~

~~(C) the maturity date;~~

~~(D) payment terms;~~

~~(E) security, if any; and~~

~~(F) any unusual term or condition of a particular extension of credit.~~

~~(d)~~ **(c)** The department may apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.

SECTION 43. IC 28-7-1-17.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17.2. (a) A credit union may make a loan to the credit union's individual officers under the following terms and conditions:**

(1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.

(2) The loan may not be on terms more favorable than those extended to other borrowers unless the loan is made in connection with a benefit or compensation plan that:

(A) is widely available to employees of the credit union; and

(B) does not give preference to any officers of the credit union over other employees of the credit union.

(3) The loan must be promptly reported to the credit union's board of directors.

(4) A loan to the officer, the officer's immediate family, or the officer's related interests, either by itself or when added to the amounts of all other loans made under this section to the officer, the officer's immediate family, or the officer's related interests, for any purpose, may not exceed, at any given time, the greater of:

(A) two and one-half percent (2.5%) of the credit union's capital and unimpaired surplus; or

(B) twenty-five thousand dollars ($25,000);

but in no event more than one hundred thousand dollars ($100,000).

(b) The limits set forth in subsection (a)(4) do not apply to any of the following:

(1) An extension of credit made under a line of credit

approved under this section if the extension of credit is made not later than fourteen (14) months after the line of credit was approved.

(2) A loan, in any amount, to finance the education of an officer's child.

(3) A loan, in any amount, to finance or refinance the purchase, construction, maintenance, or improvement of a residence of an officer, if:

(A) the loan is secured by a first lien on the residence and the residence is owned, or will be owned after the loan is made, by the officer; and

(B) in the case of a refinancing, the loan includes only the amount used to repay the original loan, plus any closing costs and any additional amount used for any purpose described in this subdivision.

(4) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.

(5) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.

(c) A credit union may not make a loan under this section to an officer, the officer's immediate family, or the officer's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the officer, the officer's immediate family, or the officer's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(d) The department may apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.

SECTION 44. IC 28-7-1-17.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17.3. At least quarterly, the president or manager shall prepare and deliver to the board of directors a report listing the outstanding indebtedness of all officers, directors, and committee members. A report prepared under this subsection must be retained at the credit union for three (3) years and shall not be filed with the department unless specifically requested. A report required by this section must**

include:

(1) the amount of each indebtedness; and

(2) a description of the terms and conditions of each loan, including:

(A) the interest rate;

(B) the original amount and date of the loan;

(C) the maturity date;

(D) payment terms;

(E) security, if any; and

(F) any unusual term or condition of a particular extension of credit.

SECTION 45. IC 28-7-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. A credit union may borrow from any source. The total borrowing of a credit union may not at any time exceed fifty per cent (50%) of the **unimpaired shares** capital **and** surplus ~~and reserve fund~~ of the credit union.

SECTION 46. IC 28-7-1-39, AS AMENDED BY P.L.1-2006, SECTION 493, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39. (a) As used in this section, "loans and extensions of credit" includes all direct or indirect advances of funds made to a member on the basis of:

(1) an obligation of the member to repay the funds; or

(2) a pledge of specific property by or on behalf of the member and from which the funds advanced are repayable.

The term includes any contractual liability of a credit union to advance funds to or on behalf of a member, to the extent specified by the department.

(b) As used in this section, "member" includes an individual, a sole proprietorship, a partnership, a joint venture, an association, a trust, an estate, a business trust, a limited liability company, a corporation, a sovereign government, or an agency, instrumentality, or political subdivision of a sovereign government, or any similar entity or organization.

(c) Except as provided in subsection (e), the total loans and extensions of credit by a credit union to a member outstanding at any given time and not fully secured, as determined in a manner consistent with subsection (d), by collateral with a market value at least equal to the amount of the loan or extension of credit may not exceed fifteen

percent (15%) of the ~~unimpaired~~ capital and ~~unimpaired~~ surplus of the credit union.

(d) Except as provided in subsection (e), the total loans and extensions of credit by a credit union to a member outstanding at any given time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of funds outstanding may not exceed ten percent (10%) of the ~~unimpaired~~ capital and ~~unimpaired~~ surplus of the credit union. The limitation in this subsection is separate from and in addition to the limitation set forth in subsection (c).

(e) The limitations set forth in subsections (c) and (d) are subject to the following exceptions:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the member negotiating it with recourse are not subject to any limitation based on capital and surplus.

(2) The purchase of bankers' acceptances of the kind described in 12 U.S.C. 372 and issued by a financial institution organized or reorganized under the laws of Indiana or any other state or the United States are not subject to any limitation based on capital and surplus.

(3) Loans or extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples are subject to a limitation of thirty-five percent (35%) of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent (115%) of the outstanding amount of the loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by any other obligation fully guaranteed as to principal and interest by the United States are not subject to any limitation based on capital and surplus.

(5) Loans or extensions of credit to or secured by unconditional takeout commitment or guarantees of any department, agency,

bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States are not subject to any limitation based on capital and surplus.

(6) Loans or extensions of credit secured by a segregated deposit account in the lending credit union are not subject to any limitation based on capital and surplus.

(7) Loans or extensions of credit to any credit union, when the loans or extensions of credit are approved by the director of the department, are not subject to any limitation based on capital and surplus.

~~(8) Loans or extensions of credit to the Student Loan Marketing Association are not subject to any limitation based on capital and surplus.~~

(f) Loans or extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guarantee by the member transferring the paper are subject under this section to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus, notwithstanding the collateral requirements set forth in subsection (d).

(g) If the credit union's files or the knowledge of the credit union's officers of the financial condition of each maker of consumer paper described in subsection (f) is reasonably adequate, and an officer of the credit union designated for that purpose by the board of directors of the credit union certifies in writing that the credit union is relying primarily upon the responsibility of each maker for payment of the loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each maker shall be the sole applicable loan limitations.

(h) Loans or extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent (115%) of the face amount of the note covered are subject under this section, notwithstanding the collateral requirements set forth in subsection (d), to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus.

(i) Loans or extensions of credit that arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller and that are secured by the cattle being sold, are subject under this section, notwithstanding the collateral requirements set forth in subsection (d), to a limitation of twenty-five percent (25%) of the capital and surplus.

(j) Except as otherwise provided, an officer, director, employee, or attorney of a credit union who stipulates for, receives, or consents or agrees to receive, any fee, commission, gift, or thing of value, from any person, for the purpose of procuring or endeavoring to procure for any member any loan from or the purchase or discount of any paper, note, draft, check, or bill of exchange by the credit union, commits a Class A misdemeanor.

(k) Except as otherwise provided in this chapter, any credit union that holds obligations of indebtedness in violation of the limitations prescribed in this section shall, not later than July 1, 2006, cause the amount of the obligations to conform to the limitations prescribed by this chapter and by the provisions of this section. The department may, in its discretion, extend the time for effecting this conformity, in individual instances, if the interests of the depositors will be protected and served by an extension. Upon the failure of a credit union to comply with the limitations, in accordance with this section or in accordance with any order of the department concerning the limitations, the department may declare that the credit union is conducting its business in an unauthorized or unsafe manner and proceed in accordance with IC 28-1-3.1-2.

(l) The department may apply the provisions of 12 CFR 32 in the application and administration of this chapter.

SECTION 47. IC 28-7-5-2, AS AMENDED BY P.L.57-2006, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. In this chapter, unless the context otherwise requires:

"Director" refers to the director of the department.

"Pawnbroker" means any person, partnership, association, **limited liability company,** or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a

stipulated price, other than choses in action, securities, or printed evidence of indebtedness.

"Pledge" means personal property deposited with a pawnbroker as security for a loan.

"Pledger" means the person who delivers personal property into the possession of a pawnbroker as security for a loan unless such person discloses that the person is or was acting for another; and in such event "pledger" means the disclosed principal.

"Department" means the department of financial institutions.

"Person" means ~~an~~ **any** individual, ~~a firm, an association, a~~ limited liability company, ~~a~~ **sole proprietorship,** partnership, ~~a joint stock association, a~~ trust, ~~or a~~ **joint venture,** corporation, **unincorporated organization, or other form of entity, however organized.**

"Month" means a period extending from a given date in one (1) calendar month to the like date in the succeeding calendar month or, if there is no such like date, then to the last day of the succeeding calendar month. For purposes of this chapter, each month is considered to have thirty (30) days.

SECTION 48. IC 28-7-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. No person ~~or entity~~ shall engage in business as a pawnbroker, act as a pawnbroker, transact or solicit business as a pawnbroker, or use in an advertisement a word or statement that states or represents that the person ~~or entity~~ is a pawnbroker, except as authorized by this chapter and without first obtaining a license from the department.

SECTION 49. IC 28-7-5-4, AS AMENDED BY P.L.217-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the department and must include all information required by the department. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

(1) the nature of the other business;

(2) the name under which the other business operates;

(3) the address of the principal office of the other business;

(4) the name and address of the business's resident agent in Indiana; and

(5) any other information the director may require.

(b) An application submitted under this section must indicate whether ~~(1) the applicant~~ **any individual described in section 8(a)(2) or 8(a)(3) of this chapter** at the time of the application:

(1) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(2) has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance with this section may include:

(1) criminal background checks, including a national criminal history **background** check **(as defined in IC 10-13-3-12)** by the Federal Bureau of Investigation **for any individual described in subsection (b);**

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an person described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 50. IC 28-7-5-8, AS AMENDED BY P.L.57-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Upon an applicant's filing of the application required by section 4 of this chapter and payment of the license fee, if the department finds the financial standing, competence, business experience, and character of:

(1) the applicant **and any significant affiliate of the applicant;**

(2) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(3) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such that the business will be operated honestly, fairly, and efficiently and that the convenience and needs of the public exist for the operation of the business in the community wherein the applicant proposes to operate, it shall issue and deliver a license to the applicant, which license shall authorize the applicant to engage in the business of pawnbroking.

(b) The director is entitled to request evidence of compliance with the requirements of this section by the licensee, **including any affiliate or person described in subsection (a),** at:

(1) the time of issuance of the license;

(2) the time of renewal of the license; or

(3) any other time considered necessary by the director.

A license shall remain in effect until it is surrendered, revoked, or suspended. If the department denies the application, it shall notify the applicant of the denial and return the sum paid by the applicant as a license fee. The department may hold a public hearing if the department considers the hearing necessary.

~~(b)~~ **(c)** The department may deny an application under this section if the director determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

SECTION 51. IC 28-7-5-10.1, AS ADDED BY P.L.217-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.1. **(a)** A licensee that decides to cease engaging in business as a pawnbroker in Indiana shall do the following not later

than thirty (30) days before closing the licensee's pawnbroking business:

(1) Notify the department of:

(A) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and

(B) the date on which the licensee's pawnbroking business will cease.

(2) Surrender the license to the department.

(3) Provide the following to all pledgers that have loans outstanding with the licensee:

(A) Notice of:

(i) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and

(ii) the date on which the licensee's pawnbroking business will cease.

(B) Instructions, approved by the director, on how pledged articles may be redeemed before the date identified under clause (A)(ii).

(b) If:

(1) a licensee ceases engaging in business as a pawnbroker in Indiana without complying with subsection (a); and

(2) the director determines that it is in the public interest that the department oversee the liquidation of the licensee's business;

the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of the liquidation.

SECTION 52. IC 28-7-5-10.6, AS ADDED BY P.L.217-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, ~~any of the following apply: (1) the licensee~~ **any individual described in section 8(a)(2) or 8(a)(3) of this chapter:**

(1) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; **or**

(2) ~~The licensee~~ has been convicted of or pleaded guilty or nolo

contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 4(b) of this chapter:

(1) not later than thirty (30) days after the licensee **or any individual described in section 8(a)(2) or 8(a)(3) of this chapter:**

(A) has been put on notice of the indictment; or

(B) has been convicted of or pleaded guilty or nolo contendere to the felony;

whichever applies; or

(2) if the licensee's next license renewal fee under section 11 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 11 of this chapter.

SECTION 53. IC 28-7-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. Each licensee shall file a report as requested by the director, but not more frequently than annually, giving any relevant information the department may reasonably require concerning the business and operations of each licensed place of business conducted by the licensee within the state. The report must be in the form prescribed by the director. The department may impose a fee ~~of five dollars ($5) per day on any report that is not received when requested.~~ **established under IC 28-11-3-5 for each day the report is delinquent.**

SECTION 54. IC 28-7-5-38.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 38.1. If the department determines, after notice and opportunity for hearing, that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose on the person a civil penalty that does not exceed ten thousand dollars ($10,000) per violation.**

SECTION 55. IC 28-7-5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39. (a) Records and information generated by licensees in the course of their business are confidential under IC 5-14-3-4.

(b) A law enforcement **or prosecutorial** official may obtain or receive records and information described in subsection (a) relating to pawnbroking transactions for use in the official law enforcement purpose of investigating crime.

(c) Law enforcement officials may disclose the name and address of the pawnbroker to an adverse claimant in the case of a dispute over ownership of property in possession of the pawnbroker.

(d) A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

(e) The director may provide for the release of information under this chapter to representatives of state, federal, or foreign:

(1) financial institution; or

(2) money services business;

supervisory agencies.

SECTION 56. IC 28-8-4-20, AS AMENDED BY P.L.57-2006, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) A person may not engage in the business of money transmission without a license required by this chapter.

(b) An application for a license must be submitted on a form prescribed by the department and must include the information required by the department.

(c) An application submitted under this section must indicate whether any individuals described in section 35(b)(2) or 35(b)(3) of this chapter:

(1) are, at the time of the application, under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(2) have been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

~~(c)~~ **(d)** The director may request ~~that the applicant provide~~ evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

~~(d)~~ **(e)** For purposes of subsection ~~(c),~~ **(d),** evidence of compliance

may include:

(1) criminal background checks, including a national criminal history **background** check **(as defined in IC 10-13-3-12)** by the Federal Bureau of Investigation **for an individual described in section 35(b)(2) or 35(b)(3) of this chapter;**

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (d). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 57. IC 28-8-4-25, AS AMENDED BY P.L.217-2007, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. In addition to the items listed in section 24 of this chapter, if an applicant is ~~a corporation,~~ **not organized as a sole proprietorship,** the applicant must provide the following items and information relating to the applicant's ~~corporate~~ **organizational** structure:

(1) State of incorporation **or organization.**

(2) Date of incorporation **or organization.**

(3) A certificate from the state in which the applicant was incorporated **or organized** stating that the ~~corporation~~ **entity** is in good standing.

(4) A description of the ~~corporate~~ **organizational** structure of the applicant, including the following:

(A) The identity of the parent of the applicant.

(B) The identity of each subsidiary of the applicant.

(C) The names of the stock exchanges, **if any,** in which the applicant, the parent, and the subsidiaries are publicly traded.

(5) The:

(A) name;
(B) business address;
(C) residence address; and
(D) employment history;

for each ~~executive officer, key shareholder, and officer or manager who will be in charge of the applicant's licensed activities.~~ **individual described in section 35(b)(2) or 35(b)(3) of this chapter.**

(6) The:
(A) history of material litigation; and
(B) the history of criminal indictments, convictions, and guilty or nolo contendere pleas for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

for each ~~executive officer, key shareholder, and director of the applicant.~~ **individual described in section 35(b)(2) or 35(b)(3) of this chapter.**

(7) Except as provided in subdivision (8), copies of the applicant's audited financial statements for the current year and, if available, for the preceding two (2) years, including a:
(A) balance sheet;
(B) statement of income or loss;
(C) statement of changes in shareholder equity; and
(D) statement of changes in financial position.

(8) If the applicant is a wholly owned subsidiary of:
(A) a corporation publicly traded in the United States, financial statements for the current year or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the preceding three (3) years may be submitted with the applicant's unaudited financial statements; or
(B) a corporation publicly traded outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted with the applicant's unaudited financial statements.

(9) Copies of filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, not

more than one (1) year before the date of filing of the application.

SECTION 58. IC 28-8-4-35, AS AMENDED BY P.L.57-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. (a) The director shall begin an investigation after an application is complete.

(b) The director shall investigate the ~~(1)~~ financial condition and responsibility, ~~(2)~~ financial and business experience, and ~~(3)~~ character and general fitness of: ~~an~~

(1) the applicant **and any significant affiliate of the applicant;**

(2) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(3) if known, each controlling person.

(c) The director may conduct an onsite investigation of the applicant, the reasonable cost of which shall be borne by the applicant.

(d) The director shall issue a license to an applicant authorizing the applicant to engage in the licensed activities in Indiana for a term expiring ~~December~~ **March** 31 of the year in which the license is issued if the director finds that:

(1) the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community; and

(2) the applicant has fulfilled the requirements imposed by this chapter.

(e) ~~On~~ **Upon** application, the director shall determine whether a particular person qualifies as a controlling person. The director may waive any or all requirements of this chapter pertaining to a controlling person for good cause shown.

(f) If the director finds that:

(1) an applicant does not satisfy the requirements in subsection (d); or

(2) an application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may deny the application. The director must set forth the reasons for the denial in writing and send a copy of the reasons to the applicant.

SECTION 59. IC 28-8-4-40.6, AS ADDED BY P.L.217-2007, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 40.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any of the following apply:

(1) The licensee, or any individual described in section ~~25(6) or 26(4)~~ **35(b)(2) or 35(b)(3)** of this chapter, is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(2) The licensee, or any individual described in section ~~25(6) or 26(4)~~ **35(b)(2) or 35(b)(3)** of this chapter, has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 24(5)(B) **or** 25(6)(B) ~~or 26(4)(B)~~ of this chapter, whichever applies:

(1) not later than thirty (30) days after the licensee or individual described in section ~~25(6) or 26(4)~~ **35(b)(2) or 35(b)(3)** of this chapter:

(A) has been put on notice of the indictment; or

(B) has been convicted of or pleaded guilty or nolo contendere to the felony;

whichever applies; or

(2) if the licensee's next license renewal fee under section 37 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 37 of this chapter.

SECTION 60. IC 28-8-4-45.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 45.5. The following persons are subject to IC 28-1-2-30.5 with respect to any records maintained by the person:**

(1) A person licensed or required to be licensed under this chapter.

(2) An authorized delegate of a person described in subdivision (1).

SECTION 61. IC 28-8-4-47, AS AMENDED BY P.L.217-2007, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 47. (a) Notwithstanding any other provision of

law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including:

(1) all information contained in or related to:

(A) examination;

(B) investigation;

(C) operation; or

(D) condition;

reports prepared by, on behalf of, or for the use of the director; or

(2) financial statements, balance sheets, or authorized delegate information;

are confidential and may not be disclosed or distributed outside the department by the director or any officer or employee of the department, except as provided in subsection (b).

(b) The director may provide for the release of information to representatives of:

(1) financial institution **and money services business** supervisory agencies;

(2) law enforcement agencies; or

(3) prosecutorial agencies or offices;

of a state (as defined in IC 28-2-17-19), the United States, or a foreign country. An agency or office that receives information from the director under this subsection shall maintain the confidentiality of the information as described in IC 28-1-2-30.

(c) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on such licensees.

SECTION 62. IC 28-8-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "person" means ~~an~~ **any** individual, ~~a~~ **sole proprietorship,** partnership, ~~an association, a joint stock association,~~ ~~a~~ trust, ~~or a~~ **joint venture, limited liability company,** corporation, **unincorporated organization, or other form of entity, however organized.**

SECTION 63. IC 28-8-5-11, AS AMENDED BY P.L.217-2007, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A person shall not engage in the business of cashing checks for consideration without first obtaining a license.

(b) Each application for a license shall be in writing in such form as the director may prescribe and shall include all of the following:

(1) The following information pertaining to the applicant:

(A) Name.

(B) Residence address.

(C) Business address.

(2) The following information pertaining to ~~corporate directors of the applicant, officers of the applicant, owners of the applicant (if a proprietorship), and partners of the applicant, if applicable.~~ **any individual described in section 12(b)(1) of this chapter:**

(A) Name.

(B) Residence address.

(C) Business address.

(D) Whether the person:

(i) is, at the time of the application, under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(ii) has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(3) The address where the applicant's office or offices will be located. If any business, other than the business of cashing checks under this chapter, will be conducted by the applicant or another person at any of the locations identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:

(A) the nature of the other business;

(B) the name under which the other business operates;

(C) the address of the principal office of the other business;

(D) the name and address of the business's resident agent in Indiana; and

(E) any other information that the director may require.

(4) Such other data, financial statements, and pertinent information as the director may require.

(c) The application shall be filed with a nonrefundable fee fixed by the department under IC 28-11-3-5.

SECTION 64. IC 28-8-5-12, AS AMENDED BY P.L.217-2007,

SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The department shall determine the financial responsibility, business experience, character, and general fitness of the applicant before issuing the license.

(b) The department may refuse to issue a license ~~if~~ **for any of the following reasons:**

(1) ~~an applicant who is an individual~~ **Any of the following** has been convicted of a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction: ~~or~~

(A) An executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant.

(B) Any person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant.

(2) The application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(c) The director of the department may request evidence of compliance with this section by the licensee at:

(1) the time of application;

(2) the time of renewal of the licensee's license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance may include:

(1) criminal background checks, including a national criminal history **background** check **(as defined in IC 10-13-3-12)** by the Federal Bureau of Investigation **for any individual described in subsection (b)(1);**

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall

pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 65. IC 28-8-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A licensee shall keep its books, accounts, and records satisfactory to the department for each transaction for at least three (3) years from the transaction date.

(b) A licensee shall keep its books, accounts, and records separate from those of any other type of business and in a manner that reflects the order of the licensee's transactions.

(c) A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

SECTION 66. IC 28-10-1-1, AS AMENDED BY P.L.217-2007, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect December 31, ~~2006.~~ **2007.**

SECTION 67. IC 28-11-1-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13.5. (a) The department may accept payment of any of the following by credit card, debit card, charge card, or similar method:**

(1) A fee established by the department under IC 28-11-3-5.

(2) A penalty assessed by the department under this title or IC 24-4.5.

(3) A fee assessed:

(A) in connection with the director's designation of an automated central licensing system and repository under IC 24-4.5-3-503(10); and

(B) for:

(i) processing applications and renewals for licenses under IC 24-4.5-3; or

(ii) performing other services that the director determines are necessary for the orderly administration

of the department's licensing system under IC 24-4.5-3.

(b) If a fee or penalty described in subsection (a) is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the department receives payment or credit from the institution responsible for making the payment or credit.

(c) The department may contract with a bank or credit card vendor for acceptance of bank or credit cards. If there is a vendor transaction charge or discount fee, whether billed to the department or charged directly to the department's account, the department or the bank or credit card vendor may collect from the person using the bank or credit card a uniform fee that is determined by the department.

SECTION 68. IC 28-11-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The director, with the approval of the members, shall organize the department.

(b) The department must consist of at least the following divisions:

(1) The division of banks and trust companies.

~~(2) The division of building and loan associations.~~

~~(3)~~ **(2)** The division of consumer credit.

~~(4)~~ **(3)** The division of credit unions.

SECTION 69. IC 28-11-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The department shall examine the affairs of every financial institution as often as the department considers necessary. Examinations may be made without notice to the institution to be examined.

(b) In making an examination, the department may examine any of the officers or agents of the institution under oath.

(c) The department may require an independent audit by a certified public accountant, subject to the standards the department determines.

(d) The department, in the classification of assets, may disregard the amount of an asset in its analysis of capital adequacy of the financial institution until the amount of the asset is recovered.

(e) After the examiners complete the examination of a financial institution, the examiners:

(1) shall submit their written findings and recommendations to:

(A) the board of directors; and

(B) other parties authorized by the board of directors and

approved by the director; and

(2) may confer with the parties listed in subdivision (1) on the findings and recommendations.

(f) Upon the conclusion of an examination, a full, true, and detailed report of the condition of the financial institution shall be made to the department by the examiners in the form prescribed by the department.

(g) A financial institution subject to examination by the department may not cause, by contract or otherwise, any data processing or other similar service to be performed, either on or off its premises, until written assurances are furnished to the department by the financial institution and the entity providing the service that the performance of the service will be subject to regulation and examination by the department to the same extent as if the service was being performed by the financial institution on its own premises. Entities that provide data processing or other similar services to more than one (1) financial institution need only file one (1) written assurance to cover all financial institutions to which the entity provides services.

(h) The report of an examination conducted under this section:

(1) is the exclusive property of the department; and

(2) except as provided in subsection (i), shall not be distributed, published, or duplicated without the prior authorization of the director.

(i) A financial institution that is or seeks to become a member of the Federal Home Loan Bank System may provide a copy of a report of an examination conducted by the department to the Federal Home Loan Bank for the confidential use of the Federal Home Loan Bank if the director and the Federal Home Loan Bank have entered into a written agreement that provides that the report of the examination:

(1) remains the property of the department; and

(2) is not:

(A) subject to inspection under IC 5-14-3;

(B) subject to subpoena;

(C) subject to discovery; or

(D) admissible in evidence in any civil action.

~~(i)~~ **(j) Except as provided in subsection (i),** a person who knowingly or intentionally possesses, distributes, publishes, or duplicates a report of an examination conducted under this section

without the prior authorization of the director commits a Class B misdemeanor.

SECTION 70. IC 28-11-3-3, AS AMENDED BY P.L.217-2007, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a)** The director **or the director's designee** may disclose or make available to a:

(1) state, ~~or~~ federal, **or foreign** law enforcement agency;

(2) state, ~~or~~ federal, **or foreign** financial institution supervisory agency;

(3) state, ~~or~~ federal, **or foreign** prosecutorial agency;

(4) state, federal, or foreign money services business supervisory agency;

~~(4)~~ **(5)** private insurer of deposit accounts or share accounts of a financial institution; ~~or~~

~~(5)~~ **(6)** state, ~~or~~ federal, **or foreign** agency responsible for licensing, registering, chartering, or supervising any regulated:

(A) business; or

(B) nonprofit activity; **or**

(7) the Federal Home Loan Bank;

confidential information described under IC 28-1-2-30 or pertaining to a regulated business or nonprofit activity.

(b) Confidential information provided by the director or the director's designee under this section is privileged by law, remains the property of the department, and is not:

(1) subject to inspection under IC 5-14-3;

(2) subject to subpoena;

(3) subject to discovery; or

(4) admissible in evidence in any civil action.

(c) The director may enter into information sharing agreements with parties authorized to received information under this section.

SECTION 71. IC 28-11-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) If the department finds that the conditions specified in section 2 or 3 of this chapter have been established, the department may issue a final order.

(b) A final order must include separately stated findings of fact and conclusions of law for all aspects of the order.

(c) A final order may do any of the following:

(1) Require the financial institution and its directors, officers,

employees, and agents to do any of the following:

(A) Cease and desist from the practice or violation.

(B) Take affirmative action to correct the conditions resulting from the practice or violation.

(2) Suspend or prohibit a director, an officer, or an employee from participating in the affairs of a financial institution or subsidiary.

(3) Impose a civil penalty not to exceed the amount specified in section 9 of this chapter.

(d) A final order shall be issued in writing within ninety (90) days after conclusion of the hearing, unless this period is waived or extended with the written consent of all parties or for good cause shown. ~~A final order issued under this chapter may be made public by the department.~~

(e) If the financial institution, director, or officer does not appear individually or by a duly authorized representative at the hearing, the financial institution, director, or officer is considered to have consented to the issuance of a final order.

(f) The director may keep a final order confidential if the director determines that the immediate release of the order would endanger:

(1) the stability of the financial institution; or

(2) the security of depositors' funds.

However, after two (2) years after the date of its issuance, a final order is no longer confidential under IC 28-1-2-30.

SECTION 72. IC 28-11-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The department may enforce ~~an order issued under this chapter~~ **any of the following** by applying for appropriate relief to a court having jurisdiction:

(1) An order issued under this chapter.

(2) A written agreement entered into by the department and:

(A) a financial institution; or

(B) any director, officer, employee, or agent of the financial institution.

(3) Any condition imposed in writing by the department on:

(A) a financial institution; or

(B) any director, officer, employee, or agent of the financial institution;

in connection with any application, notice, or request concerning the financial institution.

SECTION 73. IC 28-11-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The director of the department may exercise the enforcement powers of this chapter against an affiliate of a financial institution, **or against an officer, a director, or an employee of the affiliate,** as if the affiliate were a financial institution if the director determines that a practice of the affiliate, **or of the officer, director, or employee,** could cause either:

(1) the financial institution to suffer substantial loss or other damage; or

(2) the interests of the financial institution's depositors to be seriously prejudiced by reason of a violation, practice, or breach of fiduciary duty.

(b) In exercising the director's enforcement powers under this chapter against an officer, a director, or an employee of an affiliate, the director may:

(1) remove the officer, director, or employee from the person's office, position, or employment;

(2) prohibit any participation by the officer, director, or employee in the conduct of the affairs of any financial institution; or

(3) take both of the actions set forth in subdivisions (1) and (2).

~~(b)~~ **(c)** The director of the department may issue and serve upon the **officer,** director, or ~~the officer~~ **employee** of the affiliate a notice of charges of the practice, violation, or act.

~~(c)~~ **(d)** For purposes of this section, affiliate has the meaning set forth in IC 28-1-18.2.

SECTION 74. IC 28-11-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Upon the acceptance of an application under section 3 of this chapter, the department shall investigate and consider all of the following:

(1) The financial standing and character of the incorporators, organizers, directors, principal shareholders, or controlling corporations.

(2) The character, qualifications, and experience of the officers and directors of the proposed financial institution.

(3) The future earnings prospects for the proposed financial institution.

(4) The adequacy of the financial institution's proposed capital, if the financial institution is to be a bank, trust company, corporate fiduciary, or savings bank.

(b) The members of the department may disapprove the application if:

(1) any of the factors listed in subsection (a) are determined to be unfavorable;

(2) any of the incorporators, directors, principal shareholders, or officers of the proposed financial institution have been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States; or

(3) the applicant has knowingly or intentionally submitted an application under this chapter that contains false information.

(c) The applicant shall submit to the **department or to the** Indiana state police, **as appropriate,** two (2) sets of fingerprints for each incorporator, director, principal shareholder, and officer, if requested by the department **under section 4.5 of this chapter.**

SECTION 75. IC 28-11-5-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) To ~~provide~~ **obtain** additional information for the purposes of section 4 of this chapter, the ~~state police department, at the request of the department shall provide fingerprint and background checks on all incorporators, directors, principal shareholders, and officers~~ **director may require:**

(1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation;

(2) credit histories; and

(3) other background checks considered necessary by the director;

for any incorporator, director, principal shareholder, or officer of a proposed financial institution.

~~(b) If a disqualifying record is not identified by the state police department, the fingerprints submitted under section 4(c) of this chapter shall be forwarded to the Federal Bureau of Investigation for a national criminal history check.~~

~~(c) The department shall pay all expenses associated with investigations performed by the state police department or the Federal Bureau of Investigation as a result of an application filed under section~~

~~3 of this chapter.~~

(b) If the director requests a national criminal history background check under subsection (a) for any individual described in subsection (a), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate. The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. A national criminal history background check conducted under subsection (a) may be used by the department to:

(1) conduct an investigation under section 4(a)(1) or 4(a)(2) of this chapter; or

(2) disapprove an application under section 4(b)(2) of this chapter.

The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 76. IC 28-11-5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) Subject to subsection (g), a financial institution subject to this chapter may:**

(1) be organized as a limited liability company;

(2) convert to a limited liability company; or

(3) merge with or into a limited liability company;

under the laws of Indiana or the United States, including any rules or regulations adopted or promulgated under the laws of Indiana or the United States.

(b) A bank organized as a limited liability company is subject to:

(1) IC 23-18; and

(2) this title.

If a provision of IC 23-18 conflicts with a provision of this title or with any rule of the department, the provision of this title or the rule the department controls.

(c) Any filing required to be made under IC 23-18 shall be made in the same manner as for a bank that is organizing or is organized in stock form.

(d) The department may prescribe any requirements for:

(1) the articles of organization; and

(2) the operating agreement;

of a financial institution that is organized and operates as a limited

liability company.

(e) The department has the exclusive authority under this title to regulate a financial institution organized as a limited liability company. A financial institution that is a limited liability company is subject to the department's authority in the same manner as a bank that is organized in stock form.

(f) A financial institution that is a limited liability company is subject to the provisions of this title that apply to banks, except for the provisions concerning corporate governance (IC 28-13), in the same manner as a financial institution that is organized in stock form, subject to the following:

(1) In the case of a manager managed limited liability company, "director" means a manager of the limited liability company.

(2) In the case of a member managed limited liability company, "director" means a member of the limited liability company.

(g) A financial institution may not:

(1) organize as;

(2) convert to; or

(3) merge with or into;

a limited liability company without the prior approval of the department under this title.

SECTION 77. IC 28-13-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A corporation may declare a dividend of so much of the undivided profits of the corporation as is considered expedient by the board of directors.

(b) A corporation must obtain the approval of the department for the payment of a dividend if the total of all dividends declared by the corporation during the calendar year, including the proposed dividend, would exceed the sum of the ~~retained~~ net income for the year to date combined with its retained net income for the previous two (2) years.

(c) As used in subsection (b), "retained net income" means the net income of a specified period, calculated under the consolidated report of income instructions, less the total amount of all dividends declared for the specified period.

(d) The department may establish criteria for a corporation to be exempt from the dividend approval requirements of this section. In

establishing the criteria, the department shall consider:

(1) the corporation's composite uniform financial institutions rating assigned as a result of the corporation's most recent federal or state examination, or in the case of a corporate fiduciary, the corporate fiduciary rating assigned as a result of the corporate fiduciary's most recent state examination;

(2) the resulting Tier 1 leverage capital ratio; and

(3) the existence of any corrective or supervisory order or agreement.

SECTION 78. IC 28-13-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) As used in this section, "emergency" means:

(1) any condition or occurrence that:

(A) may interfere physically with the conduct of normal business operations; or

(B) poses an imminent or existing threat to the safety or security of persons, property, or both persons and property;

at one (1) or more of the offices of a corporation; ~~or~~

(2) any condition or occurrence that:

(A) is declared a state of disaster emergency by the governor under IC 10-14-3-12; and

(B) applies to an area that includes one (1) or more of the offices of a corporation; or

~~(2)~~ **(3)** the death of or funeral services for an employee, officer, or director of a corporation **or for a former employee, officer, or director of a corporation.**

(b) A corporation may be closed on any part of a legal holiday by giving reasonable notice to its customers of its intention to be closed in observance of the holiday.

(c) Whenever a corporation is to be closed on a day or part of a day other than a legal holiday, the board of directors shall pass a resolution concerning the closing, and give reasonable notice of the closing to the customers of the corporation.

(d) The board of directors of a corporation may establish and observe different banking hours and designate different fixed days, if any, for closing the principal office and each separate branch office of the corporation.

(e) Any day designated by the President of the United States or by

the governor as a day of mourning, celebration, or other special observance is a legal holiday for corporations.

(f) Whenever the officers of a corporation believe that an emergency exists or is impending, which affects or may affect one (1) or more of a corporation's offices, the officers have the authority, in the reasonable and proper exercise of their discretion, to determine not to open any one (1) or more of such offices or, if having opened, to close any one (1) or more of such offices during the continuation of the emergency. The office or offices so closed shall remain closed until the time the officers determine that the emergency has ended. However, such office or offices may not remain closed for more than forty-eight (48) consecutive hours on business days, excluding other legal holidays, without requesting the approval of the director of the department of financial institutions.

(g) A corporation closing an office or offices under subsection (f) shall give prompt notice of its action to the director of the department of financial institutions.

(h) Any date on which a corporation is closed under this section is a legal holiday with respect to the business affairs of the corporation. No liability or loss of rights of any kind, on the part of any corporation, director, officer, or employee, accrues or results by virtue of any closing authorized by this section.

SECTION 79. IC 28-13-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. **(a)** The department shall review a financial institution's notice or application to acquire or establish a qualifying or nonqualifying subsidiary to determine:

(1) whether the proposed activities are legally permissible; and

(2) whether the proposal endangers the safety or soundness of the financial institution.

The director shall either approve or disapprove the application for a nonqualifying subsidiary within sixty (60) days after the date on which the department receives the application. The period for approval or disapproval of the application may be extended by the department based on a determination that additional information from the financial institution or additional time for analysis is required.

(b) If there will be a change in the scope or nature of the business activity of a qualifying subsidiary of a financial institution, the financial institution shall provide the department

with written notice before the change occurs. The department shall notify the requesting financial institution of the department's receipt of the notice and shall review the notice to determine:

(1) whether the proposed change is legally permissible; and

(2) whether the proposed change endangers the safety or soundness of the financial institution.

The qualifying subsidiary may exercise or engage in the proposed activity thirty (30) days after the date on which the department receives the financial institution's notice, as indicated in the department's notice of receipt, unless otherwise notified by the department.

(c) If there will be a change in the scope or nature of the business activity of a nonqualifying subsidiary of a financial institution, the financial institution shall submit to the department an application containing a complete description of the proposed change. The department shall notify the requesting financial institution of the department's receipt of the application and shall review the application to determine:

(1) whether the proposed change is legally permissible; and

(2) whether the proposed change endangers the safety or soundness of the financial institution.

The director shall either approve or disapprove the application not later than sixty (60) days after the date on which the department receives the application. The period for approval or disapproval of the application may be extended by the department based on a determination that additional information from the financial institution or additional time for analysis is required.

SECTION 80. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 28-1-2-39; IC 28-8-4-22; IC 28-8-4-23; IC 28-8-4-26.

P.L.91-2008
[S.360. Approved March 19, 2008.]

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

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

SECTION 1. IC 15-9-5-2, AS ADDED BY P.L.182-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components):

(1) consisting of:

~~(1)~~ **(A)** a tank;

~~(2)~~ **(B)** a pump; and

~~(3)~~ **(C)** other components; **and**

(2) that is used by **either:**

(A) a person engaged in the business of selling motor fuel at retail to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle; **or**

(B) a unit to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle owned or leased by the unit.

SECTION 2. IC 15-9-5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. As used in this chapter, "unit" means a city, town, county, or township.**

SECTION 3. IC 15-9-5-7, AS ADDED BY P.L.182-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **Subject to subsection (c),** the department may award a grant under this chapter to a person **or unit** that:

(1) makes a qualified investment; and

(2) places the qualified investment in service;

in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the state department of ~~agriculture's~~ **agriculture and the** office of energy and defense development.

(c) The department may not award more than one (1) grant under this chapter for a location.

SECTION 4. IC 15-9-5-8, AS ADDED BY P.L.182-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Subject to subsection (b), the state department of ~~agriculture's~~ **agriculture and the** office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter **for a location** may not exceed the lesser of the following:

(1) The amount of the ~~person's~~ **grant recipient's** qualified investment **for the location.**

(2) ~~Five~~ **Twenty** thousand dollars ~~($5,000)~~ **($20,000).** ~~for all qualified investments made by the person at a single location.~~

(c) The amount of a grant awarded under this chapter for a location may be less than the amount of the grant recipient's qualified investment for the location.

SECTION 5. IC 15-11-11-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components):

(1) consisting of:

~~(1)~~ **(A)** a tank;

~~(2)~~ **(B)** a pump; and

~~(3)~~ **(C)** other components; **and**

(2) that is used by **either:**

(A) a person engaged in the business of selling motor fuel at retail to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle; **or**

(B) a unit to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle owned or leased by the

unit.

SECTION 6. IC 15-11-11-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.5. As used in this chapter, "unit" means a city, town, county, or township.**

SECTION 7. IC 15-11-11-7, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) **Subject to subsection (c),** the department may award a grant under this chapter to a person **or unit** that:

(1) makes a qualified investment; and

(2) places the qualified investment in service;

in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the ~~department's~~ **department and the** office of energy and defense development.

(c) The department may not award more than one (1) grant under this chapter for a location.

SECTION 8. IC 15-11-11-8, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Subject to subsection (b), the ~~department's~~ **department and the** office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter **for a location** may not exceed the lesser of the following:

(1) The amount of the ~~person's~~ **grant recipient's** qualified investment **for the location.**

(2) ~~Five~~ **Twenty** thousand dollars ~~($5,000)~~ **($20,000).** ~~for all qualified investments made by the person at a single location.~~

(c) The amount of a grant awarded under this chapter for a location may be less than the amount of the grant recipient's qualified investment for the location.

SECTION 9. **An emergency is declared for this act.**

P.L.92-2008
[H.1042. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 23-1-55 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 55. Intention to Sell Sexually Explicit Materials

Sec. 1. This chapter does not apply to a person who sells sexually explicit materials on June 30, 2008, unless the person changes the person's business location after June 30, 2008.

Sec. 2. A person (as defined in IC 35-41-1-22) that intends to offer for sale or sell sexually explicit materials shall register with the secretary of state the intent to offer for sale or sell sexually explicit materials and provide a statement detailing the types of materials that the person intends to offer for sale or sell.

Sec. 3. (a) As used in this section, "local officials of the county" refer to all of the following:

(1) The county executive.

(2) If a person described in section 2 of this chapter intends to locate in a municipality, the executive of the municipality.

(3) A local entity that supervises a zoning board in the county.

(b) After receiving a registration described in section 2 of this chapter, the secretary of state shall notify the local officials of the county in which a person described in section 2 of this chapter intends to offer for sale or sell sexually explicit materials of the registration filed under section 2 of this chapter.

SECTION 2. IC 23-18-12-3, AS AMENDED BY P.L.60-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Except as provided in subsection (e), the secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

Document	Fee
(1) Articles of organization	$90
(2) Application for use of indistinguishable name	$20
(3) Application for reservation of name	$20
(4) Application for renewal of reservation	$20
(5) Notice of transfer or cancellation of reservation	$20
(6) Application of registered name	$30
(7) Application for renewal of registered name	$30
(8) Certificate of change of registered agent's business address	No Fee
(9) Certificate of resignation of agent	No Fee
(10) Articles of amendment	$30
(11) Restatement of articles of organization	$30
(12) Articles of dissolution	$30
(13) Application for certificate of authority	$90
(14) Application for amended certificate of authority	$30
(15) Application for certificate of withdrawal	$30
(16) Application for reinstatement following administrative dissolution	$30
(17) Articles of correction	$30
(18) Certificate of change of registered agent	No Fee
(19) Application for certificate of existence or authorization	$15
(20) Biennial report filed in writing, including by facsimile	$30
(21) Biennial report filed by electronic medium	$20
(22) Articles of merger involving a domestic limited liability company	$90
(23) Any other document required or	

permitted to be filed under this article $30

(24) Registration of intent to sell sexually explicit materials, products, or services $250

(b) The fee set forth in subsection (a)(20) for filing a biennial report is fifteen dollars ($15) per year, to be paid biennially.

(c) The secretary of state shall collect a fee of $10 each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(1) One dollar ($1) per page for copying.

(2) Fifteen dollars ($15) for certification stamp.

(e) If the document described in subsection (a)(1) or (a)(13) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars ($75).

SECTION 3. IC 24-4-16.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 16.4. Sexually Explicit Materials

Sec. 1. As used in this chapter, "person" has the meaning set forth in IC 35-41-1-22.

Sec. 2. (a) As used in this chapter, "sexually explicit materials" means a product or service:

(1) that is harmful to minors (as described in IC 35-49-2-2), even if the product or service is not intended to be used by or offered to a minor; or

(2) that is designed for use in, marketed primarily for, or provides for:

(A) the stimulation of the human genital organs; or

(B) masochism or a masochistic experience, sadism or a sadistic experience, sexual bondage, or sexual domination.

(b) The term does not include:

(1) birth control or contraceptive devices; or

(2) services, programs, products, or materials provided by a:

(A) communications service provider (as defined in

IC 8-1-32.6-3);

(B) physician; or

(C) public or nonpublic school.

Sec. 3. A person or an employee or agent of a person may not offer for sale or sell sexually explicit materials unless a registration and statement are properly filed as described in IC 23-1-55-1.

Sec. 4. A person or an employee or agent of a person who knowingly or intentionally offers for sale or sells sexually explicit materials in violation of this chapter commits unregistered sale of sexually explicit materials, a Class B misdemeanor.

SECTION 4. [EFFECTIVE JULY 1, 2008] **IC 24-4-16.4-4, as added by this act, applies to offenses committed after June 30, 2008.**

P.L.93-2008

[H.1065. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-4-7, AS AMENDED BY P.L.149-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this

chapter.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, **or to a member of the public employees' retirement fund after June 30, 2008.** If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

SECTION 2. IC 5-10.2-4-7.2, AS AMENDED BY SEA 210-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (a) This section applies to **the following:**

(1) A member of the Indiana state teachers' retirement fund after

June 30, 2007.

(2) A member of the public employees' retirement fund after June 30, 2008.

(b) Subject to subsection (g), if a member is receiving a benefit from the fund and:

(1) the member's designated beneficiary dies;

(2) the member and the member's designated beneficiary ~~are~~ **have been** parties in an action for dissolution of marriage in which a final order ~~is~~ **has been** issued after the member's first benefit payment is made. ~~or~~ **It is immaterial whether the final order was issued before, on, or after the date in subsection (a)(1) or (a)(2); or**

(3) the member marries after the member's first benefit payment is made, and:

(A) the member's designated beneficiary is not the member's current spouse; or

(B) the member has not designated a beneficiary;

the member may make the election described in subsection (c).

(c) A member described in subsection (b) may elect to:

(1) change the member's designated beneficiary or form of benefit under section 7(b) of this chapter; and

(2) receive an actuarially adjusted and recalculated benefit for the remainder of:

(A) the member's life; or

(B) the member's life and the life of the newly designated beneficiary.

(d) A member making the election under subsection (c) may not elect to change to a five (5) year guaranteed form of benefit under section 7(b) of this chapter.

(e) If a member elects a benefit under subsection (c)(2)(B), the member must indicate whether the newly designated beneficiary's benefit will equal:

(1) the member's full recalculated benefit;

(2) two-thirds (2/3) of the member's recalculated benefit; or

(3) one-half (1/2) of the member's recalculated benefit.

(f) The member bears the cost of recalculating a benefit under subsection (c)(2), and the cost shall be included in the actuarial adjustment.

(g) A member may not make the election under subsection (c) if a final order or property settlement in an action for dissolution of marriage:

(1) prohibits a change in the member's designated beneficiary; or

(2) provides a right to a survivor benefit to a person who would be removed as the designated beneficiary.

(h) Benefits may be recalculated under this section only to the extent permitted by the Internal Revenue Code and applicable regulations.

(i) Before implementing this section, the board ~~of the Indiana state teachers' retirement fund~~ may obtain any approvals that the board considers necessary or appropriate from the Internal Revenue Service.

SECTION 3. IC 5-10.2-4-8.4, AS ADDED BY P.L.119-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8.4. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who is eligible to retire under IC 5-10.2-2-8(b).

(b) A member of the Indiana state teachers' retirement fund who:

(1) serves in an elected position; and

(2) after June 30, 2006, makes an election under section 8.2(b) of this chapter to begin receiving, while the member holds the elected position **or not later than thirty (30) days after the day on which the member's elected term of office ends,** the retirement benefits to which the member is entitled by age and service;

may choose at the member's retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund.

(c) If the member described in subsection (b) chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided under this chapter, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of the member's pension.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund**

established under IC 5-10.3-2-1 and the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.

(b) Notwithstanding any other provision in IC 5-10.2, IC 5-10.3, or IC 5-10.4, if:

(1) a member of the fund was receiving a benefit from the fund;

(2) the member was a party with the member's designated beneficiary in an action for dissolution of marriage in which a final order:

(A) was issued after the member's first benefit was paid; and

(B) specified that the member's designated beneficiary would not take a benefit from the fund as a designated beneficiary or surviving spouse;

(3) following the issuance of the final order described in subdivision (2), the member died; and

(4) the member's spouse at the time of the member's death was not the designated beneficiary;

the surviving spouse of the member of the fund is entitled to file an application with the fund before September 1, 2008, to be designated the member's designated beneficiary and to receive benefits from the fund as a designated beneficiary to the extent the surviving spouse otherwise qualifies for the benefits.

(c) In order to be designated a designated beneficiary under subsection (b), the surviving spouse must submit a certified copy of the final order described in subsection (b)(2) of this SECTION.

(d) This SECTION expires September 1, 2008.

SECTION 5. **An emergency is declared for this act.**

P.L.94-2008
[H.1118. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

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

SECTION 1. IC 4-33-19-6, AS ADDED BY P.L.227-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The division shall, on behalf of the department of state revenue or the alcohol and tobacco commission, conduct a license revocation action against a licensed entity for any revocation action authorized by any of the following statutes:

(1) IC 6-2.5-8-7(g).

(2) ~~IC 7.1-3-18.5-5(c).~~ **IC 7.1-3-18.5.**

(3) IC 7.1-3-23-2(b).

(4) IC 7.1-3-23-5 with respect to a violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.

SECTION 2. IC 7.1-1-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. "Applicant", for purposes of IC 7.1-3-18.5, means a person who applies for a tobacco sales certificate.**

SECTION 3. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.5. (a) "Grocery store" means a store or part of a store that is known generally as:**

(1) a supermarket, grocery store, or delicatessen and is primarily engaged in the retail sale of a general food line, which may include:

(A) canned and frozen foods;

(B) fresh fruits and vegetables; and

(C) fresh and prepared meats, fish, and poultry;

(2) subject to subsection (b), a convenience store or food mart

and is primarily engaged in:

(A) the retail sale of a line of goods that may include milk, bread, soda, and snacks; or

(B) the retail sale of automotive fuels and the retail sale of a line of goods that may include milk, bread, soda, and snacks;

(3) a warehouse club, superstore, supercenter, or general merchandise store and is primarily engaged in the retail sale of a general line of groceries or gourmet foods in combination with general lines of new merchandise, which may include apparel, furniture, and appliances; or

(4) a specialty or gourmet food store primarily engaged in the retail sale of miscellaneous specialty foods not for immediate consumption and not made on the premises, not including:

(A) meat, fish, and seafood;

(B) fruits and vegetables;

(C) confections, nuts, and popcorn; and

(D) baked goods.

(b) The term includes a convenience store or food mart as described in subsection (a)(2) only if the sale of alcoholic beverages on the premises of the convenient store or food mart represents a percentage of annual gross sales of twenty-five percent (25%) or less of all items sold on the premises, excluding gasoline and automotive oil products.

(c) The term does not include an establishment known generally as a gas station that is primarily engaged in:

(1) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline; or

(2) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline and activities that may include providing repair service, selling automotive oils, replacement parts, and accessories, or providing food services.

SECTION 4. IC 7.1-2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The commission may employ qualified individuals to serve as enforcement officers of the commission.

~~(b) Enforcement officers shall be employed so that not more than one-half (1/2) the number of enforcement officers are members of the same political party.~~

~~(c)~~ **(b)** The superintendent of the enforcement officers must have had at least ten (10) years experience as an active law enforcement officer, at least five (5) years of which must have been in a management capacity.

~~(d)~~ **(c)** The commission shall issue to an enforcement officer a certificate of employment under the seal of the commission. The courts of this state shall take judicial notice of a certificate of employment.

SECTION 5. IC 7.1-2-3-10, AS AMENDED BY P.L.227-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The commission shall have the power to investigate the violation of a provision of this title and of the rules and regulations of the commission and to report its findings to the prosecuting attorney or the grand jury of the county in which the violation occurred, or to the attorney general.

(b) The commission shall enter a memorandum of understanding with the Indiana gaming commission authorizing the commission's unlawful gaming enforcement division to conduct revocation actions resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 as authorized by the following statutes:

(1) ~~IC 7.1-3-18.5-5(c).~~ **IC 7.1-3-18.5.**

(2) IC 7.1-3-23-2(b).

(3) IC 7.1-3-23-5.

(c) A memorandum of understanding entered into under this section must comply with the requirements of IC 4-33-19-8.

(d) The memorandum of understanding required by this section must be entered into before January 1, 2008.

SECTION 6. IC 7.1-2-4-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13.5. (a) This section does not apply to a designated member of the local board who is an employee or officer of the commission.**

(b) A local board member shall complete a training program conducted by the commission. A local board member may not be required to take a test or an examination or pay a fee in order to complete the training program.

(c) The training program must include training on all the following subjects:

(1) An overview of Indiana alcoholic beverage law and

enforcement.

(2) Duties and responsibilities of the board concerning new permit applications, permit transfers, and renewal of existing permits.

(3) The open door law (IC 5-14-1.5) and the public records law (IC 5-14-3).

(4) Notice and hearing requirements.

(5) The process for appeal of an adverse decision of the board.

(6) Any other subject determined by the commission.

(d) A local board member must complete the training program not more than one hundred eighty (180) days after the member is appointed to the board. A local board member who does not complete the training program within the time allowed by this subsection shall be removed from the board under section 21 of this chapter.

SECTION 7. IC 7.1-2-4-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22. (a) A local board shall allow all individuals attending a public local board meeting or hearing to make oral comments at the meeting or hearing regarding the subject of the meeting or hearing. However, a local board may set a reasonable limit on the amount of time allowed to each individual to provide oral comment.**

(b) A local board may give greater weight to oral comments provided by a person who:

(1) owns or operates a business that is located; or

(2) owns real property or resides;

not more than one thousand (1,000) feet from the location for which a permit is requested.

SECTION 8. IC 7.1-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A judge of any court may issue a warrant to search a house or other place for alcohol, an alcoholic liquid or substance, a still, a distilling apparatus, **a tobacco product,** or another article that is being possessed, kept, sold, bartered, given away, used, or transported in violation of this title.

SECTION 9. IC 7.1-2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. ~~Disposition of Articles Pending Judgment.~~ An alcoholic beverage **or a tobacco**

product seized pursuant to this chapter and any other article which may be found on the searched premises and taken under the warrant shall not be taken from the custody of the person who served the warrant by a writ of replevin or other process while the proceedings provided in this chapter are pending. A final judgment of conviction in that proceeding shall be a bar in all cases to an action for recovery of the thing seized or the value of it or damages alleged to have arisen by reason of the seizing and detention of it.

SECTION 10. IC 7.1-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~Property Rights Limited.~~ All rights of any kind in an alcoholic beverage **or a tobacco product** of any type, or in a container for an alcoholic beverage, or in an article, apparatus, package, fixture or utensil in which an alcoholic beverage **or a tobacco product** may be placed, or which is used in connection with it, or a vehicle or conveyance in which an alcoholic beverage **or a tobacco product** is being transported or which is used for the transportation of an alcoholic beverage **or a tobacco product,** shall at all times and under all circumstances by whomsoever held, owned, or possessed, be deemed qualified by the right of the state, the commission, and the chairman, to administer, execute and enforce the provisions of this title.

SECTION 11. IC 7.1-2-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. ~~Certain Property Rights Prohibited.~~ A person shall have no property right of any kind in alcohol, an alcoholic beverage, ~~or~~ **a** malt article, **or a tobacco product** had, kept, transported, or possessed contrary to law, or in or to a receptacle or container of any kind in which these liquids and articles may be found, or in an unlawful or prohibited receptacle or container, or in a receptacle or container which does not conform to or which is being used contrary to or which is not kept in conformity to a rule or regulation of the commission, or which is being used to contain an alcoholic beverage **or tobacco product** upon which a tax is due and unpaid, or an adulterated or misbranded alcoholic beverage, or which is being used in an unlawful practice, or a practice contrary to a rule or regulation of the commission.

SECTION 12. IC 7.1-2-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. ~~Illegal Transportation: Property Rights Limited.~~ A person who is interested in

illegal transportation, or who has knowledge of it, shall have no right, title, or interest in or to a conveyance of any kind used for the illegal transportation of alcohol, alcoholic beverages, ~~or~~ malt articles, **or a tobacco product.**

SECTION 13. IC 7.1-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. ~~Forfeiture to State.~~ An officer who makes an arrest for a violation of the provisions of this title shall seize the evidence of the commission of that violation, including any vehicle, automobile, boat, air or water craft, or other conveyance in which alcohol, alcoholic beverages, ~~or~~ malt articles, **or tobacco products** are kept, possessed, or transported contrary to law, or contrary to a rule or regulation of the commission. The articles and vehicles mentioned in this section and in ~~IC 1971, 7.1-2-5-5 - 7.1-2-5-7,~~ **sections 5 through 7 of this chapter** are hereby declared forfeited to the state and shall be seized.

SECTION 14. IC 7.1-3-1.5-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.3. As used in this chapter, "server program" refers to a program designed to educate an alcohol server on the:**

(1) selling;

(2) serving; and

(3) consumption;

of alcoholic beverages.

SECTION 15. IC 7.1-3-1.5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. As used in this chapter, "trainer program" refers to a program designed to educate an individual on the training of alcohol servers on the:**

(1) selling;

(2) serving; and

(3) consumption;

of alcoholic beverages.

SECTION 16. IC 7.1-3-1.5-4.6, AS ADDED BY P.L.165-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:

(1) files the application and pays the fees established by the

commission under section 5 of this chapter;

(2) completes a program established or approved under section ~~6~~ **5.5** of this chapter; and

(3) meets the requirements under this chapter and rules adopted by the commission.

SECTION 17. IC 7.1-3-1.5-4.8, AS ADDED BY P.L.165-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.8. A certified trainer may train

~~(1)~~ alcohol servers ~~and~~

~~(2) individuals who plan to become certified trainers;~~

on the selling, serving, and consumption of alcoholic beverages.

SECTION 18. IC 7.1-3-1.5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) Subject to subsection (b), the commission may approve a trainer program by a third party that is designed to educate individuals on the training of alcohol servers on the selling, serving, and consumption of alcoholic beverages.**

(b) The commission may not approve a trainer program by a third party that holds or has an interest in any of the following permits:

(1) A primary source of supply permit.

(2) A beer, wine, or liquor wholesaler's permit.

(3) A beer, wine, or liquor retailer's permit.

(4) A beer, wine, or liquor dealer's permit.

(c) In approving a trainer program under this section, the commission may consider the following factors:

(1) The needs of applicants.

(2) The geographical distribution of the third parties' locations in Indiana.

(3) The adequacy of the facilities where the trainer program will be conducted.

SECTION 19. IC 7.1-3-1.5-6, AS AMENDED BY P.L.165-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The commission shall:

(1) establish a **server** program; and

(2) approve a **server** program established by a third party that meets the requirements of this chapter;

that is designed to educate alcohol servers ~~and individuals who plan to become certified trainers~~ on the selling, serving, and consumption of alcoholic beverages.

(b) A **server** program established or approved under subsection (a) must include the following:

(1) Training by an instructor who:

(A) has knowledge in the subject areas described in this section; and

(B) is a certified trainer under this chapter.

(2) Information on specific subject areas as required by the commission.

(3) A minimum of at least two (2) hours of training to complete the program.

(4) Information on:

(A) state laws and rules regarding the sale and service of alcoholic beverages;

(B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;

(C) the effects of alcohol:

(i) when taken with commonly used prescription and nonprescription drugs; and

(ii) on human behavior;

(D) methods of:

(i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and

(ii) handling situations involving an underage or intoxicated person;

(E) methods for properly and effectively:

(i) checking the identification of an individual;

(ii) identifying an illegal identification of an individual; and

(iii) handling situations involving individuals who have provided illegal identification;

(F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and

(G) recognizing certain behavior to assess the amount of alcohol an individual:

(i) has consumed; and

(ii) may safely consume.

(5) One (1) or both of the following:

(A) A written test.

(B) An oral test.

SECTION 20. IC 7.1-3-1.5-12, AS AMENDED BY P.L.165-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. A person who trains

~~(1)~~ alcohol servers ~~or~~

~~(2) individuals who plan to become certified trainers;~~

without a trainer certificate under this chapter commits a Class B infraction.

SECTION 21. IC 7.1-3-1.5-13, AS AMENDED BY P.L.165-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a **server** program **or a trainer program** established or approved under section **5.5 or** 6 of this chapter not later than one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the **server** program subject areas described in section 6 of this chapter **or subject areas of a trainer program** every three (3) years after the date the alcohol server completes a **server** program **or a trainer program;** and

(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, a dealer permittee, or a management representative of a retailer or dealer permittee must complete a **server** program **or a trainer program** established or approved under section **5.5 or** 6 of this chapter:

(1) not later than one hundred twenty (120) days after the date:

(A) the dealer permittee is issued a permit described in section 2 of this chapter; or

(B) the retailer permittee is issued a permit described in section 4 of this chapter; and

(2) every five (5) years after the date the retailer permittee, dealer

permittee, or management representative of the retailer or dealer permittee completes a **server** program **or a trainer program.**

(c) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the requirements under subsections (a) and (b).

(d) The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 22. IC 7.1-3-1.5-14, AS ADDED BY P.L.165-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. A **server** program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the **server** program.

SECTION 23. IC 7.1-3-1.5-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14.5. A trainer program established or approved under section 5.5 of this chapter must provide a trainer certificate to an individual who successfully completes the program.**

SECTION 24. IC 7.1-3-1.5-15, AS ADDED BY P.L.165-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The commission may attend and observe training by a certified trainer under a **server** program established or approved under section 6 of this chapter at any time.

SECTION 25. IC 7.1-3-1.5-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.5. The commission may attend and observe training under a trainer program established or approved under section 5.5 of this chapter at any time.**

SECTION 26. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

(1) Manufacture beer.

(2) Place beer in containers or bottles.

(3) Transport beer.

(4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.

(5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:

(A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

(i) bulk containers; or

(ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(H) Sell and deliver beer to a consumer at the permit premises of the brewer or at the residence of the consumer. The delivery to a consumer may be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

(A) is located in the same county as the brewer's brewery;

(B) manufactures less than twenty thousand (20,000) barrels

of beer in a calendar year; and

(C) is the proprietor of a restaurant that operates under subdivision (5).

~~(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.~~

~~(8)~~ **(7)** Provide complimentary samples of beer that are:

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

~~(9)~~ **(8)** Own a portion of the corporate stock of a sports corporation that:

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

~~(10)~~ **(9)** For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 27. IC 7.1-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The premises to be used as a warehouse by an applicant shall be described in the application for the permit. The commission shall not issue a beer wholesaler's permit to an applicant for any other warehouse or premises than that described in the application. The commission shall issue only one (1) beer wholesaler's permit to an applicant, but a permittee may be permitted to transfer ~~his~~ **the permittee's** warehouse to another location within the county **that is not required to be within the corporate limits of an incorporated city or town,** upon application to, and approval of, the commission.

(b) As used in this subsection, "immediate relative" means the father, the mother, a brother, a sister, a son, or a daughter of a wholesaler permittee. Notwithstanding subsection (a), the commission, upon the death or legally adjudged mental incapacitation of a

wholesaler permittee, may allow the transfer of the wholesaler permit only to an immediate relative of the wholesaler permittee who concurrently holds a majority share in a valid wholesaler permit.

SECTION 28. IC 7.1-3-3-5, AS AMENDED BY P.L.224-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

(1) another beer wholesaler authorized by the brewer to sell the brand purchased;

(2) ~~a consumer;~~ **an employee;** or

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, or supplemental caterer's permit;

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) ~~Delivery of beer to a consumer shall be made in barrels only with the exception of~~ The beer wholesaler's bona fide regular employees ~~who~~ may purchase beer from the wholesaler in:

(1) bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints; **or**

(2) one (1) keg;

at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of

flavored malt beverage purchased.

(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, or supplemental caterer's permit.

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

(2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and

(3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

SECTION 29. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. (a) Notwithstanding IC 7.1-1-3-18.5, the commission may renew or transfer ownership of a beer dealer's permit for a beer dealer who:**

(1) held a permit before July 1, 2008; and

(2) has a premises that does not qualify for a permit as a grocery store under IC 7.1-1-3-18.5.

(b) The commission may transfer ownership of a beer dealer's permit under this section only to an applicant who is the proprietor of:

(1) a drug store;

(2) a grocery store; or

(3) a package liquor store.

SECTION 30. IC 7.1-3-5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5. (a) As used in this section, "annual gross sales of food" refers to annual gross sales of food for human consumption that are exempt from the state gross retail tax.**

(b) The holder of a permit issued to a grocery store that is generally known as a convenience store or food mart as described in IC 7.1-1-3-18.5(a)(2) shall report annually to the commission the amount of the permit holder's establishment's annual gross sales of food.

(c) An applicant who:

(1) is applying for a beer dealer's permit; and

(2) is the proprietor of a grocery store that is generally known as a convenience store or food mart as described in IC 7.1-1-3-18.5(a)(2);

shall report to the commission the amount of the applicant's establishment's annual gross sales of food.

(d) The information provided to the commission under subsections (b) and (c) regarding the amount of annual gross sales of food is confidential information and may not be disclosed to the public under IC 5-14-3. However, the commission may disclose the information:

(1) to the department of state revenue to verify the accuracy of the amount of annual gross sales of food reported to the commission under subsections (b) and (c); and

(2) in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of annual gross sales discovered by the department of state revenue.

(e) The department of state revenue shall verify the accuracy of the reports provided to the commission under this section. The department of state revenue shall report to the commission any discrepancy that the department discovers between:

(1) the amount of annual gross sales of food that the permit holder has reported to the department; and

(2) the amount of annual gross sales of food that the permit holder has reported to the commission.

(f) Notwithstanding IC 6-8.1-7-1 or any other law, in fulfilling its obligations under this section, the department of state revenue may provide to the commission confidential information. The commission shall maintain the confidentiality of information provided by the department of state revenue under this section. However, the commission may disclose the information in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy discovered by the department of state revenue under subsection (e).

SECTION 31. IC 7.1-3-8-3, AS AMENDED BY P.L.224-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

(b) A liquor wholesaler shall be entitled to purchase liquor within

this state from a person who holds a distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A liquor wholesaler also may purchase liquor outside this state from the primary source of supply and, from that source, may transport and import liquor into this state.

(c) A liquor wholesaler may sell, transport, and deliver liquor only to a person who, under this title, holds a:

(1) liquor retailer's permit;

(2) supplemental caterer's permit;

(3) liquor dealer's permit; or

(4) liquor wholesaler's permit.

The sale, transportation, and delivery of liquor shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time.

(d) A liquor wholesaler's bona fide regular employees may purchase liquor from the wholesaler in an amount not to exceed eighteen (18) liters.

SECTION 32. IC 7.1-3-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A liquor retailer may allow customers to sample the following:

(1) Beer.

(2) Wines.

(3) Liquors.

(4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).

(5) Flavored malt beverages.

(6) Hard cider.

(b) Sampling is permitted only:

(1) on the liquor retailer's permit premises; and

(2) during the permittee's regular business hours.

(c) A liquor retailer may not charge for the samples provided to customers.

(d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a liquor retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

(1) A liquor retailer may allow a customer to sample only a combined total of two (2) liquor, liqueur, or cordial samples per

day.

(2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.

(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) A sample size of beer, **flavored malt beverage, or hard cider** may not exceed six (6) ounces.

SECTION 33. IC 7.1-3-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A liquor dealer permittee who is a proprietor of a package liquor store may allow customers to sample the following:

(1) Beer.

(2) Wines.

(3) Liquors.

(4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).

(5) Flavored malt beverages.

(6) Hard cider.

(b) Sampling is permitted:

(1) only on the package liquor store permit premises; and

(2) only during the store's regular business hours.

(c) No charge may be made for the samples provided to the customers.

(d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a proprietor who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

(1) A proprietor may allow a customer to sample not more than a combined total of two (2) liquor, liqueur, or cordial samples per day.

(2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.

(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) **A** sample size of beer, **flavored malt beverage, or hard cider** may not exceed six (6) ounces.

SECTION 34. IC 7.1-3-13-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) A wine wholesaler may sell wine purchased from an estate sale only if the following requirements are met:**

(1) The primary source of the wine sold at auction:

(A) is authorized to sell wine in Indiana on the date the wine is resold by the wholesaler;

(B) is given notice of the purchase by the wine wholesaler; and

(C) authorizes the wine wholesaler to resell the wine purchased.

(2) The seller of wine at auction is a bona fide estate of an Indiana decedent.

(3) Each wine bottle is affixed with a sticker indicating that the wine was purchased from an estate.

(b) The notice given to the primary source under subsection (a)(1) must include the following information:

(1) The name of the seller.

(2) The amount of the product purchased and the sale price at auction.

(3) The vintage of the wine purchased.

(c) A wholesaler is not liable for product liability for wine that the wholesaler sells from an estate auction purchase.

SECTION 35. IC 7.1-3-17.5-1, AS AMENDED BY P.L.233-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The commission may issue a gaming site permit to a person who has been issued:

(1) a riverboat owner's license under IC 4-33-6;

(2) an operating agent contract under IC 4-33-6.5; or

(3) a gambling game license under IC 4-35;

to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) A permit issued under this chapter **to a person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6)** may be used:

(1) on the riverboat; and

(2) in a restaurant owned by the person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6) if the restaurant is located on property adjacent to the property used by the riverboat for docking purposes.

(c) A permit issued under this chapter to a person who has been issued a gambling game license under IC 4-35 may be used at a slot machine facility licensed under IC 4-35.

SECTION 36. IC 7.1-3-17.5-6, AS AMENDED BY P.L.233-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of a gaming site permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:

~~(1) The event is attended by not more than six hundred fifty (650) guests.~~

~~(2) The event is not more than six (6) hours in duration.~~

~~(3)~~ **(1)** Each alcoholic beverage dispensed to a guest:

(A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and

(B) is entered into a cash register as a sale and at the same price that is charged to the general public.

~~(4)~~ **(2)** At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the gaming site permit.

~~(5)~~ **(3)** All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the gaming site permit for not less than two (2) years.

~~(6)~~ **(4)** The holder of the gaming site permit complies with the rules of the commission.

SECTION 37. IC 7.1-3-18.5-2, AS AMENDED BY P.L.224-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

(1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.

(2) **Except as provided in section 6(c) of this chapter,** a fee of two hundred dollars ($200).

(3) The name under which the applicant transacts or intends to transact business.

(4) The address of the applicant's principal place of business or headquarters, if any.

(5) The statement required under section 2.6 of this chapter.

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) A certificate holder shall conspicuously display the holder's certificate on the holder's premises where the tobacco products are sold or distributed.

(d) Any intentional misstatement or suppression of a material fact in an application filed under this section constitutes grounds for denial of the certificate.

(e) A certificate may be issued only to a person who meets the following requirements:

(1) If the person is an individual, the person must be at least eighteen (18) years of age.

(2) The person must be authorized to do business in Indiana.

~~(c)~~ **(f)** The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION 38. IC 7.1-3-18.5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.6. An application for a tobacco certificate must contain the express statement of the applicant that the applicant consents for the duration of the certificate term (if the commission issues the certificate to the applicant) to the entrance, inspection, and search by an enforcement officer, without a warrant or other process, of the applicant's retail premises to determine whether the applicant is complying with the provisions of this title. The consent required by this section is renewed and continued by the retention of a certificate or the certificate's use by the applicant or the applicant's agents.**

SECTION 39. IC 7.1-3-18.5-5, AS AMENDED BY P.L.227-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending or revoking a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension **or revocation of a certificate** to the

certificate holder.

(c) Subject to subsection (b), the commission shall revoke the certificate of a person upon a finding by a preponderance of the evidence that the person:

(1) has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4;

(2) has committed habitual illegal sale of tobacco as established under IC 35-46-1-10.2(h); or

(3) has committed habitual illegal entrance by a minor as established under IC 35-46-1-11.7(f).

SECTION 40. IC 7.1-3-18.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) If a certificate has:

(1) expired; or

(2) been suspended;

the commission may not reinstate or renew the certificate until all civil penalties imposed against the certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7 have been paid.

(b) The failure to pay a civil penalty described in subsection (a) is a Class B infraction.

(c) If a certificate has been revoked, the commission may not reinstate or renew the certificate for at least one hundred eighty (180) days after the date of revocation. The commission may reinstate or renew the certificate only upon a reasonable showing by the applicant that the applicant shall:

(1) exercise due diligence in the sale of tobacco products on the applicant's premises where the tobacco products are sold or distributed; and

(2) properly supervise and train the applicant's employees or agents in the handling and sale of tobacco products.

If a certificate is reinstated or renewed, the applicant of the certificate shall pay an application fee of one thousand dollars ($1,000).

~~(c)~~ **(d)** Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

SECTION 41. IC 7.1-3-18.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 8. The commission may mitigate civil penalties imposed against a certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or any of the provisions of this chapter if a certificate holder provides a training program for the certificate holder's employees that includes at least the following topics:**

(1) Laws governing the sale of tobacco products.

(2) Methods of recognizing and handling customers who are less than eighteen (18) years of age.

(3) Procedures for proper examination of identification cards to verify that customers are under eighteen (18) years of age.

SECTION 42. IC 7.1-3-18.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. A certificate holder shall exercise due diligence in the supervision and training of the certificate holder's employees or agents in the handling and sale of tobacco products on the holder's retail premises. Proof that employees or agents of the certificate holder, while in the scope of their employment, committed at least six (6) violations relating to IC 35-46-1-10.2(a) in any one hundred eighty (180) day period shall be prima facie evidence of a lack of due diligence by the certificate holder in the supervision and training of the certificate holder's employees or agents.**

SECTION 43. IC 7.1-3-18.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) If a certificate holder fails to attend or participate in a hearing without good cause, the hearing judge may recommend to the commission that the commission suspend or revoke the certificate holder's certificate or impose a fine on the certificate holder of up to one thousand dollars ($1,000).**

(b) A hearing judge may grant a continuance of a hearing upon written motion showing good cause for the continuance.

SECTION 44. IC 7.1-3-19-5, AS AMENDED BY P.L.224-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The commission shall cause one (1) notice of the pending investigation to be published in a newspaper in accordance with the provisions of IC 7.1-3-1-18. The publication of the notice shall

be at least ~~thirty (30)~~ **fifteen (15)** days before the investigation.

SECTION 45. IC 7.1-3-19-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) As used in this section, "applicant" or "application" means an applicant or an application for:**

(1) a new permit; or

(2) the transfer or renewal of an existing permit.

(b) This section applies if a permit applicant or a person who remonstrates at a local board hearing against the approval of the application files with the commission:

(1) an objection to the commission's action on the application; and

(2) a request for an appeal hearing before the commission.

(c) The commission shall do the following:

(1) Provide notice to the local board, by first class mail, of the date of an appeal hearing set by the commission. Notice under this subdivision must be provided not later than ten (10) days before the date of the hearing.

(2) Publish notice in the city, town, or county where the proposed permit premises is located of the date of an appeal hearing set by the commission. Notice under this subdivision must be published not later than ten (10) days before the date of the hearing.

SECTION 46. IC 7.1-3-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. ~~Dealers' Permits Limited.~~ **(a)** The commission may grant: ~~only~~

(1) in an incorporated city or town that has a population of less than fifteen thousand one (15,001):

(A) one (1) beer dealer's permit ~~and~~ **for each two thousand (2,000) persons, or a fraction thereof; or**

(B) two (2) beer dealer's permits;

whichever is greater, within the incorporated city or town;

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

(A) one (1) beer dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or

(B) eight (8) beer dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

(A) one (1) beer dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or

(B) twenty-three (23) beer dealer's permits;

whichever is greater, within the incorporated city or town.

(b) The commission may grant:

(1) in an incorporated city or town that has a population of less than fifteen thousand one (15,001):

(A) one (1) liquor dealer's permit ~~in an incorporated city, town or unincorporated town~~ for each ~~one~~ **two** thousand ~~five hundred (1,500)~~ **(2,000)** persons, or **a** fraction thereof; **or**

(B) two (2) liquor dealer's permit;

whichever is greater, within the incorporated city **or** town; ~~or unincorporated town;~~

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

(A) one (1) liquor dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or

(B) eight (8) liquor dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

(A) one (1) liquor dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or

(B) twenty-three (23) liquor dealer's permits;

whichever is greater, within the incorporated city or town.

(c) The commission may grant in an area in the county outside an incorporated city or town:

(1) one (1) beer dealer's permit for each two thousand five hundred (2,500) persons, or a fraction thereof, or two (2) beer dealer's permits, whichever is greater; and

(2) one (1) liquor dealer's permits for each two thousand five hundred (2,500) persons, or a fraction thereof, or two (2)

liquor dealer's permits, whichever is greater;

within the area in a county outside an incorporated city or town.

(d) Notwithstanding subsections (a), (b), and (c), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer that:

(1) held a permit before July 1, 2008; and

(2) does not qualify for a permit under the quota restrictions set forth in subsection (a), (b), or (c).

(e) Notwithstanding subsection (a) or (c), the commission may grant not more than two (2) new beer dealer's permits or five percent (5%) of the total beer dealer permits established under the quota restrictions set forth in subsection (a) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (a).

(2) An area in a county outside an incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (c).

(f) Notwithstanding subsection (b) or (c), the commission may grant not more than two (2) new liquor dealer's permits or five percent (5%) of the total liquor dealer permits established under the quota restrictions set forth in subsection (b) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (b).

(2) An area in a county outside an incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (c).

SECTION 47. IC 7.1-4-4.1-3, AS AMENDED BY P.L.224-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The following ~~biennial~~ license fee is imposed for an employee's permit:

(1) Fifteen dollars ($15) if the permit is used only to perform volunteer service that benefits a nonprofit organization.

(2) ~~Thirty dollars ($30)~~ **Forty-five dollars ($45)** if subdivision (1) does not apply.

The term of a ~~biennial~~ employee's license is ~~two (2)~~ **three (3)** years.

SECTION 48. IC 7.1-5-5-9, AS AMENDED BY P.L.224-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) This section does not apply to product management (as described in 905 IAC 1-5.2-15) by a permittee.**

(b) It is unlawful for a ~~beer wholesaler or a primary source of supply to.~~ **permittee to knowingly or intentionally** ~~(1)~~ coerce, or attempt to coerce, or persuade ~~a beer wholesaler~~ **another permittee** to enter into an agreement, or to take an action, which ~~will~~ **would** violate ~~or tend to violate,~~ a provision of this title or of the rules and regulations of the commission. ~~or~~

~~(2)~~ **(c) It is unlawful for a beer wholesaler or a primary source of supply to** cancel or terminate an agreement or contract between a beer wholesaler and a primary source of supply for the sale of beer, unfairly and without due regard for the equities of the other party.

SECTION 49. IC 7.1-5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) It is a ~~Class C infraction~~ **Class C misdemeanor** for a minor to **knowingly or intentionally** make a false statement of the minor's age or to present or offer false or fraudulent evidence of majority or identity to a permittee for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure an alcoholic beverage.

(b) In addition to the penalty under subsection (a), a minor who:

(1) uses a false or altered driver's license or the driver's license of another person as evidence of majority under this section; or

(2) is convicted of purchasing or procuring an alcoholic beverage with or without using a false or altered driver's license;

shall have the minor's driver's license suspended for up to one (1) year in accordance with IC 9-24-18-8 and IC 9-30-4-9.

(c) Upon entering a judgment **of conviction** for the ~~infraction~~ **misdemeanor** under this section, the court shall forward a copy of the judgment to the bureau of motor vehicles for the purpose of complying with subsection (b).

SECTION 50. IC 7.1-5-7-8, AS AMENDED BY P.L.2-2007, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) It is a ~~Class C~~ **Class B** misdemeanor for a person to recklessly, **knowingly, or intentionally** sell, barter, exchange, provide, or furnish an alcoholic beverage to a

minor.

(b) However, the offense described in subsection (a) is:

(1) a Class A misdemeanor if the person has a prior unrelated conviction under this section; and

(2) a Class D felony if the consumption, ingestion, or use of the alcoholic beverage is the proximate cause of the serious bodily injury or death of any person.

~~(b)~~ **(c)** This section shall not be construed to impose civil liability upon any postsecondary educational institution, including public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barters, exchanges, provides, or furnishes an alcoholic beverage to a minor.

SECTION 51. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

(2) A person at least ~~eighteen (18)~~ **nineteen (19)** years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment**.**

(3) A person **who is** at least nineteen (19) years of age but less than twenty-one (21) years of age ~~who:~~ **and** ~~(A)~~ **who** has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 ~~and (B) serves~~ **from serving** alcoholic beverages in a dining area or family room of a restaurant or hotel:

~~(i)~~ **(A)** in the course of a person's employment as a waiter,

waitress, or server; and

~~(ii)~~ **(B)** under the supervision of a person who:

(i) is at least twenty-one (21) years of age;

(ii) is present at the restaurant or hotel; and

(iii) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

SECTION 52. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off duty law enforcement officers to conduct inspections under this section.**

SECTION 53. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

(1) at least eighteen (18) years of age; and

(2) less than twenty-one (21) years of age;

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

(1) occur under the direction of an enforcement officer vested with full police powers and duties; and

(2) be a part of the enforcement action.

SECTION 54. IC 7.1-5-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) It is unlawful for a person who owns or operates a private or public restaurant or place of public or private entertainment to permit another person to come

into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the provisions of this section shall not apply to the following:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track that is used primarily in the sport of auto racing.

(3) An outdoor place of public entertainment that:

(A) has an area of at least four (4) acres and not more than six (6) acres;

(B) is located within one (1) mile of the White River;

(C) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(D) is used primarily in connection with live music concerts.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

SECTION 55. IC 7.1-5-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a track that is used primarily in the sport of auto racing.

(c) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(4) is used primarily in connection with live music concerts.

~~(c)~~ **(d)** It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 56. IC 7.1-5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. ~~Taking Liquor Into Restaurant Prohibited.~~ **(a)** It is a Class C misdemeanor for a person to knowingly carry liquor into a restaurant or place of public entertainment for the purpose of consuming it, displaying it, or selling, furnishing, or giving it away to another person on the premises, or for the purpose of having it served to himself or another person, then and there. It is a Class C misdemeanor to knowingly consume liquor brought into a public establishment in violation of this section.

(b) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(4) is used primarily in connection with live music concerts.

SECTION 57. IC 7.1-5-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. ~~Sale to Non-Permittee Prohibited.~~ It is unlawful for the holder of a brewer's, distiller's, rectifier's, or a wholesaler's permit of any type to sell an alcoholic beverage to a person who does not hold an appropriate permit under this title. However, this section shall not apply to the sale of an alcoholic beverage to a consumer **or employee** as expressly authorized in this title.

SECTION 58. IC 7.1-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in subsection (d), it is unlawful to sell alcoholic beverages at the following times:

(1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day.

(3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.

(4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on the premises, as at a hotel or restaurant, permits.

~~(c) It is unlawful to sell alcoholic beverages on New Years Day for off-premises consumption.~~

~~(d)~~ **(c)** It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 59. IC 9-21-4-5, AS AMENDED BY P.L.30-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (b), a person may not place or maintain upon a highway a traffic sign or signal bearing commercial advertising. A public authority may not permit the placement of a traffic sign or signal that bears a commercial message.

(b) Under criteria to be jointly established by the Indiana department of transportation and the office of tourism development, the Indiana department of transportation may authorize the posting of any of the following:

(1) Limited tourist attraction signage.

(2) Business signs on specific information panels on the interstate system of highways and other freeways.

All costs of manufacturing, installation, and maintenance to the Indiana department of transportation for a business sign posted under this subsection shall be paid by the business.

(c) Criteria established under subsection (b) for tourist attraction signage must include a category for a tourist attraction that:

(1) is a trademarked destination brand; and

(2) encompasses buildings, structures, sites, or other facilities that

are:

(A) listed on the National Register of Historic Places established under 16 U.S.C. 470 et seq.; or

(B) listed on the register of Indiana historic sites and historic structures established under IC 14-21-1;

regardless of the distance of the tourist attraction from the highway on which the tourist attraction signage is placed.

(d) Criteria established under subsection (b) for tourist attraction signage must include a category for a tourist attraction that is an establishment licensed under IC 7.1-3-2-7(5).

~~(d)~~ **(e)** A person may not place, maintain, or display a flashing, a rotating, or an alternating light, beacon, or other lighted device that:

(1) is visible from a highway; and

(2) may be mistaken for or confused with a traffic control device or for an authorized warning device on an emergency vehicle.

~~(e)~~ **(f)** This section does not prohibit the erection, upon private property adjacent to highways, of signs giving useful directional information and of a type that cannot be mistaken for official signs.

SECTION 60. IC 34-30-2-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19.5. IC 7.1-3-13-3.5 (Concerning wine purchased at an estate sale and resold by a wine wholesaler).**

SECTION 61. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.1. (a) If a permit holder or an agent or employee of a permit holder violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil judgment may be imposed against the permit holder as follows:**

(1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars ($200).

(2) If the licensed premises at that specific business location has had one (1) citation or summons for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars ($400).

(3) If the licensed premises at that specific business location has had two (2) citations or summonses for a violation of

IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars ($700).

(4) If the licensed premises at that specific business location has had three (3) or more citations or summonses for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars ($1,000).

(b) The defenses set forth in IC 7.1-5-7-5.1 are available to a permit holder in an action under this section.

(c) Unless a person less than twenty-one (21) years of age buys or receives an alcoholic beverage under the direction of a law enforcement officer as part of an enforcement action, a permit holder that sells alcoholic beverages is not liable under this section unless the person less than twenty-one (21) years of age who bought or received the alcoholic beverage is charged for violating IC 7.1-5-7-7.

(d) All civil penalties collected under this section shall be deposited in the alcohol and tobacco commission's enforcement and administration fund under IC 7.1-4-10.

SECTION 62. IC 35-46-1-10.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~fifty dollars ($50).~~ **up to two hundred dollars ($200).**

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~one hundred dollars ($100).~~ **up to four hundred dollars ($400).**

(3) If the retail establishment at that specific business location has

had two (2) citations or summonses issued for a violation of this section in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~two hundred fifty dollars ($250).~~ **up to seven hundred dollars ($700).**

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~five hundred dollars ($500).~~ **up to one thousand dollars ($1,000).**

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the

tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any ~~six (6) month~~ **one hundred eighty (180) day** period commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 63. IC 35-46-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A tobacco vending machine that is located in a public place must bear ~~a~~ **the following** conspicuous ~~notice:~~ **notices:**

(1) **A notice:**

(A) that reads as follows, with the capitalization indicated: "If you are under 18 years of age, YOU ARE FORBIDDEN by Indiana law to buy tobacco from this machine."; or

~~(2)~~ **(B)** that:

~~(A)~~ **(i)** conveys a message substantially similar to the message described in ~~subdivision (1),~~ **clause (A);** and

~~(B)~~ **(ii)** is formatted with words and in a form authorized under the rules adopted by the alcohol and tobacco commission.

(2) A notice that reads as follows, "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight."

(3) A notice printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the state department of health.

(b) A person who owns or has control over a tobacco vending machine in a public place and who:

(1) fails to post ~~the~~ **a** notice required by subsection (a) on ~~his~~ **the** vending machine; or

(2) fails to replace ~~the~~ **a** notice within one (1) month after it is removed or defaced;

commits a Class C infraction.

(c) An establishment selling tobacco at retail shall post and maintain in a conspicuous place, ~~a sign,~~ **at the point of sale, the following:**

(1) Signs printed in letters at least one-half (1/2) inch high, reading as follows:

(A) "The sale of tobacco to persons under 18 years of age is forbidden by Indiana law."

(B) "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight."

(2) A sign printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the state department of health.

(d) A person who:

(1) owns or has control over an establishment selling tobacco at retail; and

(2) fails to post and maintain the sign required by subsection (c);

commits a Class C infraction.

SECTION 64. IC 35-46-1-11.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment **the following:**

(1) A sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store.".

(2) A sign printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the state department of health.

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction

committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~fifty dollars ($50).~~ **up to two hundred dollars ($200).**

(2) If the person has had one (1) violation in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~one hundred dollars ($100).~~ **up to four hundred dollars ($400).**

(3) If the person has had two (2) violations in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~two hundred fifty dollars ($250).~~ **up to seven hundred dollars ($700).**

(4) If the person has had three (3) or more violations in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~five hundred dollars ($500).~~ **up to one thousand dollars ($1,000).**

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

(f) A person who violates subsection (a) at least six (6) times in any one hundred eighty (180) day period commits habitual illegal entrance by a minor, a Class B infraction.

SECTION 65. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 7.1-2-4-13.5, as added by this act, a member of a local board appointed before January 1, 2009, shall complete the training required under IC 7.1-2-4-13.5, as added by this act, not later than July 1, 2009.**

(b) The alcohol and tobacco commission shall begin providing a training program under IC 7.1-2-4-13.5, as added by this act, for members of local boards not later that January 1, 2009.

(c) This SECTION expires July 2, 2009.

SECTION 66. [EFFECTIVE JULY 1, 2008] **IC 7.1-5-7-8, as amended by this act, applies only to offenses committed after June 30, 2008.**

SECTION 67. [EFFECTIVE JULY 1, 2008] **The intent and purpose of IC 7.1-5-8-4, IC 7.1-5-8-5, IC 7.1-5-8-6, all as amended by this act, is the promotion of performing arts in Indiana.**

SECTION 68. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on alcoholic beverage issues established by this SECTION.**

(b) There is established an interim study committee on alcoholic beverage issues.

(c) The committee shall study and make recommendations to the legislative council concerning the following:

(1) Alcohol server training and employee permits for sales clerks in dealer establishments.

(2) Additional one, two, or three-way permits for restaurants in economic development areas.

(3) Displaying alcoholic beverages in separate areas in dealer establishments.

(4) The historic origins of Indiana alcoholic beverage laws and the Twenty-first Amendment to the Constitution of the United States and its place and purpose in the twenty-first century.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) Before November 1, 2009, the committee shall issue a final report to the legislative council containing the findings and recommendations of the committee.

(g) This SECTION expires December 31, 2010.

SECTION 69. P.L.165-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: SECTION 42. (a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

(c) As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

(d) As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2.

(e) As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4.

(f) As used in this SECTION, "trainer certificate" has the meaning

set forth in IC 7.1-3-1.5-4.4, as added by this act.

(g) Notwithstanding IC 7.1-3-1.5-12, a person who is training alcohol servers or individuals who plan to become certified trainers before July 1, 2006, may continue to train alcohol servers or individuals who plan to become certified trainers without a certificate issued under IC 7.1-3-1.5 pending the processing of an application for a trainer certificate under this SECTION.

(h) The person described in subsection (g) may submit to the commission an application for a trainer certificate under IC 7.1-3-1.5. To be entitled to continue training without a trainer certificate under subsection (g), the person must submit the application before March 1, 2007.

(i) The person described in subsection (g) shall cease training alcohol servers and individuals who plan to become certified trainers if:

(1) the person fails to submit an application within the time allowed under subsection (h); or

(2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

(j) Notwithstanding IC 7.1-3-1.5-13:

(1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program established or approved under IC 7.1-3-1.5-6, as amended by this act, not later than:

(A) ~~January 1, 2009;~~ **January 1, 2010;** or

(B) one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

whichever is later; and

(2) a retailer permittee, a dealer permittee, or a management representative of a retailer or dealer permittee must complete a program established or approved under IC 7.1-3-1.5-6, as amended by this act, not later than:

(A) ~~January 1, 2009;~~ **January 1, 2010;** or

(B) one hundred twenty (120) days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-3;

whichever is later.

(k) This SECTION expires ~~December 31, 2010.~~ **December 31, 2011.**

SECTION 70. [EFFECTIVE JULY 1, 2008] **IC 7.1-5-7-1, as amended by this act, applies to crimes committed after June 30, 2008.**

SECTION 71. **An emergency is declared for this act.**

P.L.95-2008

[H.1153. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.

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

SECTION 1. IC 4-32.2-1-1, AS AMENDED BY P.L.227-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This article applies only to a qualified organization.

(b) This article applies only to the following approved gambling events conducted as fundraising activities by qualified organizations:

(1) Bingo events, charity game nights, door prize events, raffle events, festivals, and other gaming events approved by the commission.

(2) The sale of pull tabs, punchboards, and tip boards:

(A) at bingo events, charity game nights, door prize events, raffle events, and festivals conducted by qualified organizations; or

(B) at any time on the premises owned or leased by a qualified organization and regularly used for the activities of the qualified organization.

This article does not apply to any other sale of pull tabs, punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

(d) This article does not apply to the following:

(1) A type II gambling game authorized by IC 4-36.

(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

SECTION 2. IC 4-32.2-1-2, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **Except as provided in IC 4-32.2-4-13(e),** the purpose of this article is to permit a licensed qualified organization:

(1) to conduct allowable events; and

(2) to sell pull tabs, punchboards, and tip boards;

as a fundraising activity for lawful purposes of the organization.

SECTION 3. IC 4-32.2-2-21, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. "Operator" means an individual who is:

(1) designated under IC 4-32.2-5-1.5 to serve as the operator for an allowable event; and

(2) responsible for conducting an allowable event for a qualified organization under this article in accordance with Indiana law.

SECTION 4. IC 4-32.2-2-30, AS AMENDED BY P.L.227-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. **Except as provided in IC 4-32.2-5-14(b),** "worker" means an individual who helps or participates in any manner in conducting or assisting in conducting an allowable event under this article.

SECTION 5. IC 4-32.2-3-3, AS AMENDED BY P.L.227-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The commission shall adopt rules under IC 4-22-2 for the following purposes:

(1) Administering this article.

(2) Establishing the conditions under which charity gaming in Indiana may be conducted, **including the manner in which a qualified organization may supervise a euchre game conducted under IC 4-32.2-5-14(b).**

(3) Providing for the prevention of practices detrimental to the

public interest and providing for the best interests of charity gaming.

(4) Establishing rules concerning inspection of qualified organizations and the review of the licenses necessary to conduct charity gaming.

(5) Imposing penalties for noncriminal violations of this article.

(6) Establishing standards for independent audits conducted under IC 4-32.2-5-5.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

SECTION 6. IC 4-32.2-4-9, AS AMENDED BY P.L.227-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The commission may issue an annual raffle license to a qualified organization if:

(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the commission under IC 4-32.2-6.

(b) The application for an annual raffle prize license must contain the following:

(1) The name of the qualified organization.

(2) The location where the raffle events will be held.

(3) The names of the operator and officers of the qualified organization.

(c) A license issued under this section:

(1) ~~may~~ **must** authorize the qualified organization to conduct raffle events ~~on more than one (1) occasion~~ **at any time** during a period of one (1) year;

(2) must state the locations of the permitted raffle events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(d) A license issued under this section is not required for raffles permitted under section 13 of this chapter at events held under a bingo license, a special bingo license, a charity game night license, a door prize license, or an annual door prize license.

SECTION 7. IC 4-32.2-4-13, AS AMENDED BY P.L.227-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A bingo license or special bingo license may also authorize a qualified organization to conduct raffle events and door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

(1) conduct raffle events and door prize drawings; and

(2) sell pull tabs, punchboards, and tip boards;

at the charity game night.

(c) A raffle license or an annual raffle license may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license or an annual door prize license may also authorize a qualified organization to conduct a raffle event and to sell pull tabs, punchboards, and tip boards at the door prize event.

(e) A PPT license may also authorize a qualified organization to conduct at any time on the premises described in section 16.5(b) of this chapter a winner take all drawing in which the qualified organization retains no portion of the amounts wagered. The total amount awarded to a patron who participates in a winner take all drawing may not exceed three hundred dollars ($300).

SECTION 8. IC 4-32.2-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. For each allowable event conducted under this article, a qualified organization shall designate an individual to serve as the operator of the allowable event. An individual designated under this section must be qualified to serve as an operator under this article.**

SECTION 9. IC 4-32.2-5-6, AS AMENDED BY P.L.227-2007, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Except as provided in IC 4-32.2-4-9 and IC 4-32.2-4-16.5,** a qualified organization may not conduct more than

three (3) allowable events during a calendar week and not more than one (1) allowable event each day.

(b) Except as provided in **IC 4-32.2-4-9,** IC 4-32.2-4-12, and IC 4-32.2-4-16.5, allowable events may not be held on more than two (2) consecutive days.

(c) A qualified organization may conduct one (1) additional festival event during each six (6) months of a calendar year.

SECTION 10. IC 4-32.2-5-14, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a)** An operator or a worker may not directly or indirectly participate, other than in a capacity as an operator or a worker, in an allowable event that the operator or worker is conducting.

(b) A patron at a charity game night may deal the cards in a card game if:

(1) the card game in which the patron deals the cards is a game of euchre;

(2) the patron deals the cards in the manner required in the ordinary course of the game of euchre; and

(3) the euchre game is played under the supervision of the qualified organization conducting the charity game night in accordance with rules adopted by the commission under IC 4-32.2-3-3.

A patron who deals the cards in a euchre game conducted under this subsection is not considered a worker or an operator for purposes of this article.

SECTION 11. IC 4-32.2-6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "gross revenue" does not include any amount wagered on a winner take all drawing conducted by a qualified organization under IC 4-32.2-4-13(e).**

SECTION 12. IC 4-35-7-13, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.

(b) As used in this section, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

(c) As used in this section, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

(d) Money distributed **to a horsemen's association** under section 12 of this chapter may not be used for any of the following purposes:

(1) To make a contribution to a candidate or a committee.

(2) For lobbying (as defined in IC 2-7-1-9).

SECTION 13. IC 4-36 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 36. TYPE II GAMING IN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES

Chapter 1. General Provisions

Sec. 1. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through the elected and qualified members of the legislature, declares that the state is exempt from 15 U.S.C. 1172.

Sec. 2. All shipments of gambling games authorized under this article to distributors and retailers in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into the state of Indiana.

Sec. 3. This article does not apply to the following:

(1) The Indiana state lottery established under IC 4-30.

(2) Pari-mutuel horse racing under IC 4-31.

(3) Charity gaming under IC 4-32.2.

(4) Riverboat gambling under IC 4-33.

(5) Slot machine wagering under IC 4-35.

Sec. 4. Nothing in this article may be construed to authorize the

use of an electronic gaming device in a type II gambling operation.

Chapter 2. Definitions

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

Sec. 2. "Commission" means the alcohol and tobacco commission created by IC 7.1-2-1-1.

Sec. 3. "Deal" means each separate game or series of pull tab tickets with a specific form number and a unique serial number.

Sec. 4. "Department" refers to the department of state revenue.

Sec. 5. "Distributor" means a person licensed to distribute pull tabs, punchboards, and tip boards under IC 4-32.2.

Sec. 6. "Electronic gaming device" has the meaning set forth in IC 35-45-5-1.

Sec. 7. "Flare" means the board or placard that accompanies each deal of pull tabs on which the following information is printed:

(1) The game name.

(2) The manufacturer's name or distinctive logo.

(3) The form number.

(4) The ticket count.

(5) The prize structure.

(6) The cost per play.

(7) The game serial number.

Sec. 8. "Form number" means the unique number or alphanumeric code that identifies a game's cost per play, ticket count, payout structure, and extended payout structure, if any.

Sec. 9. "Gross receipts" means the total amount of money exchanged for the purchase of raffle tickets, pull tabs, punchboards, and tip boards by type II gaming patrons. The term does not include any amount wagered on a winner take all drawing conducted by a retailer under IC 4-36-5-1(b)(2).

Sec. 10. "Licensed premises" has the meaning set forth in IC 7.1-1-3-20.

Sec. 11. "Licensee" means a person holding a license issued under this article.

Sec. 12. "Manufacturer" means a person licensed to manufacture pull tabs, punchboards, and tip boards under IC 4-32.2.

Sec. 13. "Person" means an individual, a sole proprietorship, a

partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity.

Sec. 14. "Pull tab" has the meaning set forth in IC 4-32.2-2-22.

Sec. 15. "Punchboard" has the meaning set forth in IC 4-32.2-2-23.

Sec. 16. "Raffle" means the selling of tickets or chances to win a prize awarded through a random drawing.

Sec. 17. "Retailer" means a person that:

(1) is licensed to sell alcoholic beverages under IC 7.1-3 to customers for consumption on the licensed premises of the person's tavern; and

(2) holds an endorsement to conduct type II gambling games that was issued by the commission under IC 4-36-4.

Sec. 18. "Tavern" means that part of a licensed premises:

(1) that is a separate room from the public spaces of the licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16);

(2) that is used primarily for the serving of alcoholic beverages by the drink to the general public; and

(3) where food service is secondary to the primary use described in subdivision (2) in the amount of sales.

Sec. 19. "Tip board" has the meaning set forth in IC 4-32.2-2-28.

Sec. 20. "Type II gambling game" means a pull tab, punchboard, or tip board game approved by the Indiana gaming commission for play under IC 4-32.2.

Sec. 21. "Type II gambling operation" means the conduct of gambling games authorized under this article in a tavern.

Chapter 3. Powers and Duties of the Commission

Sec. 1. (a) The commission shall supervise and administer type II gambling operations conducted in Indiana under this article.

(b) The commission shall enforce this article.

Sec. 2. For purposes of conducting an investigation or a proceeding under this article, the commission may do the following:

(1) Administer oaths.

(2) Take depositions.

(3) Issue subpoenas.

(4) Compel the attendance of witnesses and the production of

books, papers, documents, and other evidence.

Sec. 3. (a) The commission may adopt rules under IC 4-22-2 for the establishment, implementation, and operation of type II gambling games and to ensure that the type II gambling operations are consistently operated in a fair and honest manner.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 for the administration of this article if the commission determines that:

(1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

Sec. 4. (a) The commission has the sole authority to issue an endorsement or a license to a person authorizing the person to sell, distribute, or manufacture type II gambling games under this article.

(b) The commission may not limit the number of persons licensed under this article.

Chapter 4. Licensing

Sec. 1. (a) Subject to section 13 of this chapter, the commission shall issue a retailer's endorsement to an applicant that satisfies the requirements of this article. A retailer's endorsement allows the retailer to conduct type II gaming at only the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An applicant must obtain a separate retailer's endorsement for each tavern at which the applicant wishes to conduct type II gaming.

(b) The commission shall affix an endorsement issued under this chapter to the retailer's alcoholic beverage permit that authorizes the retailer to sell alcoholic beverages at the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An endorsement issued under this chapter is valid for one (1) year.

Sec. 2. (a) To qualify for a retailer's endorsement, a person must operate a tavern licensed under IC 7.1-3 to sell alcoholic beverages to customers for consumption on the premises of the tavern.

(b) The following may not apply for a retailer's endorsement under this article:

(1) A person holding a horse track permit under IC 7.1-3-17.7.

(2) A licensed owner of a riverboat licensed under IC 4-33.

(3) An operating agent who operates a riverboat in a historic

hotel district under IC 4-33.

(4) A qualified organization (as defined in IC 4-32.2-2-24).

(5) An organization that is eligible to apply for a charity gaming license under IC 4-32.2.

(6) A person holding a gambling game license issued under IC 4-35-5.

(7) A person holding a permit issued under IC 7.1-3 for a licensed premises that is not a tavern, including holders of the following:

(A) A boat permit.

(B) A hotel permit.

(C) A fraternal club permit.

(D) A resort hotel permit.

(E) An airport permit.

(F) A satellite facility permit.

(G) A microbrewery permit.

(H) A social club permit.

(I) A civic center permit.

(J) A catering hall permit.

(K) A dining car permit.

(L) A temporary event permit.

(M) A permit for any of the following facilities:

(i) A stadium.

(ii) An automobile race track.

(iii) A concert hall.

Sec. 3. (a) To obtain a retailer's endorsement, a person must submit an application form to the commission.

(b) An application submitted under this section must include at least the following:

(1) The name and address of the applicant and of any person holding at least a ten percent (10%) interest in the applicant.

(2) The name and address of the tavern for which the applicant seeks a retailer's endorsement.

(3) The applicant's consent to credit investigations and criminal record searches.

(4) Waivers and releases signed by the applicant that the commission believes are necessary to ensure a full and complete review of the application.

(c) An applicant must furnish all information requested by the

commission, including financial data and documents, certifications, consents, waivers, and individual histories.

(d) The commission shall review the applications for a retailer's endorsement under this chapter and shall inform each applicant of the commission's decision concerning the issuance of a retailer's endorsement.

Sec. 4. The costs of investigating an applicant for a retailer's endorsement under this chapter shall be paid from the initial endorsement fee paid by the applicant under section 5 of this chapter.

Sec. 5. (a) The commission shall charge the following fees for the issuance of a person's initial annual endorsement or license under this chapter:

(1) Two hundred fifty dollars ($250) for a retailer's endorsement to conduct a type II gambling operation in the retailer's tavern.

(2) One thousand dollars ($1,000) for a distributor's license.

(3) One thousand five hundred dollars ($1,500) for a manufacturer's license.

(b) The commission shall charge the following fees for the renewal of a person's annual endorsement or license under this chapter:

(1) The amount determined under section 6 of this chapter for a retailer's endorsement.

(2) One thousand dollars ($1,000) for a distributor's license.

(3) One thousand five hundred dollars ($1,500) for a manufacturer's license.

(c) The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

Sec. 6. (a) For the purposes of subsection (c), a retailer's adjusted gross revenue is an amount equal to the difference between:

(1) the retailer's total gross revenue from the retailer's type II gambling operations in the preceding year; minus

(2) the sum of any amounts deducted under subsection (b) in the preceding year.

(b) To determine the amount of a retailer's adjusted gross revenue from the retailer's type II gambling operations in the

preceding year under subsection (a), the retailer shall subtract the following from the retailer's gross receipts:

(1) An amount equal to the total value of the prizes awarded in the preceding year.

(2) The sum of the purchase prices paid for type II gambling games dispensed in the retailer's type II gambling operation in the preceding year.

(3) An amount equal to the amount of license fees paid by the retailer in the preceding year.

(c) The license fee that is charged to a retailer that renews the endorsement must be based on the adjusted gross revenue from the retailer's type II gambling operations in the preceding year, according to the following schedule:

Class	Adjusted Gross Revenues		Fee
	At Least	But Less Than	
A	$ 0	$ 15,000	$ 50
B	$ 15,000	$ 25,000	$ 100
C	$ 25,000	$ 50,000	$ 300
D	$ 50,000	$ 75,000	$ 400
E	$ 75,000	$ 100,000	$ 700
F	$ 100,000	$ 150,000	$ 1,000
G	$ 150,000	$ 200,000	$ 1,500
H	$ 200,000	$ 250,000	$ 1,800
I	$ 250,000	$ 300,000	$ 2,500
J	$ 300,000	$ 400,000	$ 3,250
K	$ 400,000	$ 500,000	$ 5,000
L	$ 500,000	$ 750,000	$ 6,750
M	$ 750,000	$ 1,000,000	$ 9,000
N	$ 1,000,000	$ 1,250,000	$ 11,000
O	$ 1,250,000	$ 1,500,000	$ 13,000
P	$ 1,500,000	$ 1,750,000	$ 15,000
Q	$ 1,750,000	$ 2,000,000	$ 17,000
R	$ 2,000,000	$ 2,250,000	$ 19,000
S	$ 2,250,000	$ 2,500,000	$ 21,000
T	$ 2,500,000	$ 3,000,000	$ 24,000
U	$ 3,000,000		$ 26,000

Sec. 7. The commission may issue a distributor's license to an applicant who meets the requirements of this article.

Sec. 8. The commission may issue a manufacturer's license to an

applicant who meets the requirements of this article.

Sec. 9. (a) To obtain a distributor's license or a manufacturer's license, a person must submit an application to the commission on a form prescribed by the commission. An applicant shall furnish all information required by the commission.

(b) To qualify for a distributor's license or a manufacturer's license under this chapter, a person must also be a licensed distributor or manufacturer under IC 4-32.2.

Sec. 10. The commission shall conduct or cause to be conducted a background investigation of each applicant for an endorsement or license issued under this chapter.

Sec. 11. Criminal history record information obtained during the investigation of an individual must be maintained by the commission for the term of the endorsement or license and for any subsequent license term.

Sec. 12. The commission may require that an application or other document submitted by an applicant or a licensee must be sworn to or affirmed before a notary public.

Sec. 13. The commission may not issue an endorsement or a license to an applicant if any of the following apply:

(1) The applicant has knowingly made a false statement of material fact to the commission.

(2) The applicant is found by the commission to lack the necessary financial stability or responsibility for holding an endorsement or license issued under this chapter.

(3) The applicant, if an individual, is less than twenty-one (21) years of age on the date on which the application is received by the commission.

(4) The applicant is on the most recent tax warrant list.

(5) The applicant, if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a felony within the ten (10) years preceding the date of the endorsement or license application, unless the commission determines that:

(A) the individual has been pardoned or the individual's civil rights have been restored;

(B) after the conviction or entry of the plea, the individual has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the commission; or

(C) the individual has terminated a relationship with a person whose actions directly contributed to the conviction or entry of the plea.

(6) The applicant fails to provide all materials requested by the commission.

Sec. 14. Credit and security investigation information submitted in connection with an application for an endorsement or a license under this article is confidential and may not be disclosed except for official purposes under this article or under a judicial order.

Sec. 15. An endorsement or a license issued under this article may not be transferred without prior written approval of the commission.

Sec. 16. If the commission proposes to revoke an endorsement or a license issued under this chapter, the licensee may continue to operate under the endorsement or license until the commission has made a decision and all administrative appeals have been exhausted by the licensee.

Chapter 5. Type II Gambling Operations

Sec. 1. (a) A retailer may offer the sale of type II gambling games in accordance with this article.

(b) A retailer's endorsement also authorizes a retailer to conduct the following gambling games on the premises of the retailer's tavern:

(1) Raffles in which the retailer retains the proceeds of the raffle drawing.

(2) Winner take all drawings in which the retailer retains no portion of the amounts wagered.

(c) The total amount awarded to:

(1) patrons who participate in a raffle permitted under subsection (b)(1); or

(2) a patron who participates in a winner take all drawing permitted under subsection (b)(2);

may not exceed three hundred dollars ($300).

Sec. 2. (a) A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

(b) Type II gambling games, raffles, and winner take all drawings may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

Sec. 3. (a) A retailer that obtains a type II gambling game must obtain the type II gambling game from a distributor licensed by the commission under this article.

(b) Except as provided in subsection (c), a distributor must obtain at least twenty-five percent (25%) of the type II gambling games purchased by the distributor from a manufacturer that is domiciled in Indiana.

(c) The commission may excuse a distributor from the requirement set forth in subsection (b) if the commission finds that at least one (1) of the following conditions exists:

(1) No manufacturer domiciled in Indiana is licensed under this article.

(2) No manufacturer domiciled in Indiana is in good standing with the requirements of this article.

(3) All of the licensed manufacturers domiciled in Indiana also hold distributor's licenses.

Sec. 4. (a) A retailer shall maintain accurate records of all financial aspects of the retailer's type II gambling operation. A retailer shall make accurate reports of all financial aspects of the type II gambling operation to the commission within the time established by the commission. The commission shall prescribe forms for this purpose.

(b) As long as a retailer's receipts from the retailer's type II gambling operation remain on the premises of the retailer's tavern, the receipts may not be commingled with the receipts of the retailer's alcoholic beverage sales, food sales, and other related nongambling activities.

Sec. 5. (a) The total prizes awarded for one (1) type II gambling game may not exceed five thousand dollars ($5,000).

(b) A single prize awarded for one (1) winning ticket in a type II gambling game may not exceed five hundred ninety-nine dollars ($599).

(c) The selling price for one (1) ticket for a type II gambling game may not exceed one dollar ($1). Tickets sold for less than one dollar ($1) must be sold for a price specified in section 6(b) of this chapter.

Sec. 6. (a) Except as provided in subsection (b), a type II gambling game must pay out at least seventy-five percent (75%) and not more than one hundred percent (100%) of the amount

wagered.

(b) This subsection applies only to a type II gambling game ticket that is sold for less than one dollar ($1). A type II gambling game subject to this subsection must comply with the following minimum payout percentages:

Purchase Price	Minimum Payout Percentage
$0.10	60%
$0.25	65%
Three (3) tickets for one dollar ($1)	65%
$0.50	70%

(c) A type II gambling game's pay out percentage must be stated on the ticket or on the accompanying flare.

Sec. 7. The following persons may not play or participate in any manner in a type II gambling game:

(1) An employee of the commission.

(2) A person less than twenty-one (21) years of age.

(3) The retailer offering the type II gambling game.

(4) A person employed by the retailer offering the type II gambling game.

Chapter 6. Penalties

Sec. 1. (a) The commission may suspend or revoke the endorsement or license of or levy a civil penalty against a licensee for any of the following:

(1) Violation of a provision of this article or of a rule of the commission.

(2) Failure to accurately account for type II gambling games.

(3) Failure to accurately account for sales proceeds from type II gambling operations.

(4) Commission of a fraud, deceit, or misrepresentation.

(5) Conduct prejudicial to public confidence in the commission.

(b) If a violation is of a continuing nature, the commission may impose a civil penalty on a licensee for each day the violation continues.

Sec. 2. The commission may impose on a licensee the following civil penalties:

(1) Not more than one thousand dollars ($1,000) for the first violation.

(2) Not more than two thousand five hundred dollars ($2,500)

for the second violation.

(3) Not more than five thousand dollars ($5,000) for each additional violation.

Sec. 3. In addition to the penalties described in section 2 of this chapter, the commission may do all or any of the following:

(1) Suspend or revoke an endorsement or a license issued under this article.

(2) Lengthen a period of suspension of an endorsement or a license issued under this article.

(3) Impose an additional civil penalty of not more than one hundred dollars ($100) for each day a civil penalty goes unpaid.

Sec. 4. Except as provided in section 5 of this chapter, a person who violates this article commits a Class A infraction.

Sec. 5. A person who knowingly or intentionally:

(1) makes a false statement on an application submitted under this article;

(2) operates a type II gambling operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this article;

(3) permits a person less than twenty-one (21) years of age to play a type II gambling game; or

(4) wagers or accepts a wager on a type II gambling game at a location other than a retailer's licensed premises;

commits a Class A misdemeanor.

Sec. 6. The commission shall deposit all civil penalties collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

Chapter 7. Security

Sec. 1. The commission is responsible for security matters under this article. The commission may employ individuals who are necessary to carry out this chapter.

Sec. 2. The commission may do any of the following:

(1) Investigate an alleged violation of this article.

(2) Enter the following premises for the performance of the commission's lawful duties:

(A) A retailer's tavern.

(B) A place in which type II gambling games are being purchased, sold, manufactured, printed, or stored.

(3) Take necessary equipment from the premises referred to in subdivision (2) for further investigation.

(4) Obtain full access to all financial records of the alleged violator on request.

(5) If there is a reason to believe that a violation has occurred, search and inspect the premises where the violation is alleged to have occurred or is occurring. A search under this subdivision may not be conducted unless a warrant has first been obtained by the commission. A contract entered into by the commission may not include a provision allowing for warrantless searches. A warrant may be obtained in the county in which the search will be conducted or in Marion County.

(6) Seize or take possession of:

(A) papers;

(B) records;

(C) tickets;

(D) currency; or

(E) other items;

related to an alleged violation.

Sec. 3. The commission shall conduct investigations necessary to ensure the security and integrity of the operation of type II gambling games under this article. The commission may conduct investigations of the following:

(1) Retailers.

(2) Applicants for endorsements or licenses issued under this article.

(3) Licensed manufacturers and distributors.

(4) Employees of the commission under this article.

(5) Applicants for contracts or employment with the commission under this article.

Sec. 4. (a) The state police department shall, at the request of the commission, provide the following:

(1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary operations under this article.

(2) Any other assistance requested by the executive director and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the Indiana gaming commission and the Indiana professional licensing agency, shall upon request provide the commission with information relevant to an investigation conducted under this article.

Chapter 8. State Preemption

Sec. 1. Type II gambling games other than those authorized by the commission under this article are not allowed in Indiana.

Sec. 2. Local taxes, regardless of type, may not be imposed on the operations of the commission under this article or on the sale of type II gambling games under this article.

Sec. 3. (a) Local governmental authority concerning the following is preempted by the state under this article:

(1) All matters relating to the operation of type II gambling games.

(2) All matters relating to the possession, transportation, advertising, sale, manufacture, printing, storing, or distribution of type II gambling games.

(b) A county, a municipality, or another political subdivision of the state may not enact an ordinance relating to the commission's operations authorized by this article.

Sec. 4. A state or local law providing a penalty for or a restriction or prohibition against the operation of type II gambling games or the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games does not apply to the operation of type II gambling games under this article or to the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games under this article.

Chapter 9. Type II Gambling Game Excise Tax

Sec. 1. An excise tax is imposed on the distribution of type II gambling games in the amount of ten percent (10%) of the price paid by the retailer that purchases the type II gambling games.

Sec. 2. A licensed entity distributing pull tabs, punchboards, or tip boards under this article is liable for the tax. The tax is imposed at the time the licensed entity:

(1) brings or causes the type II gambling games to be brought into Indiana for distribution;

(2) distributes type II gambling games in Indiana; or

(3) transports type II gambling games to retailers in Indiana

for resale by those retailers in accordance with this article.

Sec. 3. The department shall establish procedures by which each licensee must account for the following:

(1) The tax collected under this chapter by the licensee.

(2) The type II gambling games sold by the licensee.

(3) The funds received for the sale of type II gambling games by the licensee.

(4) The address of each retailer that purchased pull tabs, punchboards, or tip boards from the licensee in the previous calendar month.

Sec. 4. A payment by a licensee to the department may not be in cash. All payments must be in the form of a check, a draft, an electronic funds transfer, or another financial instrument authorized by the department. The department may require a licensee to establish a separate electronic funds transfer account to make payments to the department.

Sec. 5. All taxes imposed on a licensee under this chapter shall be remitted to the department on a monthly basis at the times and as directed by the department. The department is responsible for all administrative functions related to the receipt of funds. The department may require a licensee to file with the department reports of the licensee's receipts and transactions in the sale of type II gambling games. The department shall prescribe the form of the reports and the information to be contained in the reports.

Sec. 6. The department may at any time perform an audit of the books and records of a licensee to ensure compliance with this article.

Sec. 7. The department shall deposit all taxes collected under this chapter in the state general fund.

SECTION 14. IC 6-2.5-5-43 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43. Sales of type II gambling games authorized by IC 4-36 are exempt from the state gross retail tax.**

SECTION 15. IC 6-8.1-1-1, AS AMENDED BY P.L.233-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);

the slot machine wagering tax (IC 4-35-8); **the type II gambling game excise tax (IC 4-36-9);** the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 16. IC 35-45-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. This chapter does not apply to the following gambling games licensed or authorized under IC 4-36:**

(1) Raffles.

(2) Winner take all drawings.

(3) Type II gambling games.

P.L.96-2008
[H.1250. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-9-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The commission may:

(1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions which the commission deems necessary and desirable;

(2) sue and be sued;

(3) enter into contracts and agreements, including contracts and agreements not to exceed ten (10) years;

(4) make rules and regulations necessary for the conduct of its business and the accomplishment of its purposes;

(5) receive and approve, alter, or reject requests and proposals for funding by any nonprofit corporations or political subdivisions;

(6) after its approval of a proposal, transfer money, quarterly or less frequently, from any available funds ~~pursuant to section 7(b)(2) or 7(c)(1)~~ **of the commission under section 7** of this chapter for the purpose of promotion and encouragement in the county of conventions, trade shows, visitors, or special events; and

(7) require financial or other reports from any entity that receives funds under this chapter.

(b) A majority of the commission constitutes a quorum for the transaction of business, and the concurrence of a majority of those present is necessary to authorize any action. However, the commission shall not transact any business without first giving written notice to the director of the county parks and recreation board at least forty-eight (48) hours in advance of the convening of a meeting at which business is to be transacted.

SECTION 2. IC 6-9-7-7, AS AMENDED BY P.L.167-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that is not more than five percent (5%).

(b) Money in the innkeeper's tax fund shall be ~~expended in the following order:~~ **distributed as follows:**

~~(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (1/2) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.~~

~~(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2014.~~

~~(3) For the period beginning July 1, 2002, through December 2014, fifty percent (50%) of the revenue to the county treasurer to be credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:~~

~~(A) Seventy-five percent (75%) of the money in the special account~~

(1) Thirty percent (30%) shall be distributed to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

~~(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:~~

~~(i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and~~

~~(ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);~~

~~for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through December 2012, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the nonprofit corporation's use in noncapital projects in the state park.~~

~~Money in the special account may not be used for any other purpose. The money credited to the account that has not been used as specified in this subdivision by January 1, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).~~

~~(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2014 as follows:~~

~~(1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.~~

~~(2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to~~

~~the following entities upon application by the executive of the entity:~~

~~(A) The county for deposit in a special account.~~

~~(B) The most populated city in the county for deposit in a special account.~~

~~(C) The second most populated city in the county for deposit in a special account.~~

~~(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be segregated in a special account.~~

~~(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both.~~

(2) Forty percent (40%) shall be distributed to the commission to carry out its purposes, including making any distributions or payments to the Lafayette - West Lafayette Convention and Visitors Bureau, Inc.

(3) Ten percent (10%) shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(A) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and

(B) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities.

(4) Ten percent (10%) shall be distributed to Historic Prophetstown to be used by Historic Prophetstown for carrying out its purposes.

(5) Ten percent (10%) shall be distributed to the Wabash River Enhancement Corporation to assist the Wabash River Enhancement Corporation in carrying out its purposes. Money distributed under this subdivision may not be used to pay any:

(A) employee salaries; or

(B) other ongoing administrative or operating costs;

of the Wabash River Enhancement Corporation.

(c) An advisory commission consisting of the following members is established:

(1) The director of the department of natural resources or the director's designee.

(2) The public finance director or the public finance director's designee.

(3) A member appointed by the Native American Indian affairs commission.

(4) A member appointed by Historic Prophetstown.

(5) A member appointed by the community development corporation described in subsection (b)(2)(B).

(6) A member appointed by the Wabash River Enhancement Corporation.

(7) A member appointed by the commission.

(8) A member appointed by the county fiscal body.

(9) A member appointed by the town board of the town of Battleground.

(10) A member appointed by the mayor of the city of Lafayette.

(11) A member appointed by the mayor of the city of West Lafayette.

(d) The following apply to the advisory commission:

(1) The governor shall appoint a member of the advisory commission as chairman of the advisory commission.

(2) Six (6) members of the advisory commission constitute a quorum. The affirmative votes of at least six (6) advisory commission members are necessary for the advisory commission to take official action other than to adjourn or to meet to hear reports or testimony.

(3) The advisory commission shall make recommendations concerning the use of any proceeds of bonds issued to finance the development of Prophetstown State Park.

(4) Members of the advisory commission who are state employees:

(A) are not entitled to any salary per diem; and

(B) are entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and to reimbursement for

other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The Indiana finance authority, in its capacity as the recreational development commission, may issue bonds for the development of Prophetstown State Park under IC 14-14-1.

SECTION 3. IC 6-9-40 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 40. Steuben County Food and Beverage Tax

Sec. 1. This chapter applies to Steuben County.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on transactions described in section 4 of this chapter.

(b) If the fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the county in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these

raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The county food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state. The county auditor shall, at least monthly, make a distribution of fifty percent (50%) of the amount received from the treasurer of state in the immediately preceding thirty (30) days to the city of Angola. The remainder of the distribution shall be retained for use by the county.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a county described in section 1 of this chapter, the fiscal officer of a political subdivision receiving a distribution under this chapter shall establish a food and beverage tax receipts fund.

(b) The fiscal officer of a political subdivision receiving a distribution under this chapter shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. (a) Except as provided in subsection (b), money in the fund established under section 8 of this chapter shall be used by a political subdivision receiving a distribution under this chapter only for the following purposes:

(1) Construction, extension, or completion of sewerlines, waterlines, streets, curbs, sidewalks, bridges, roads, highways, alleys, public ways, parking facilities, lighting, electric signals, information and high technology infrastructure (as defined IC 5-28-9-4), and any other infrastructure improvements.

(2) Engineering, legal, and other consulting or advisory services, plans, specifications, surveys, cost estimates, and other costs or expenses necessary or incident to activities described in subdivision (1).

(3) Park and recreation purposes, including the purchase of land for park and recreation purposes.

(4) Police and law enforcement purposes, firefighting and fire prevention purposes, emergency medical services and ambulance services, and other public safety purposes.

(b) The fiscal body of a political subdivision receiving a distribution under this chapter may pledge money in the political subdivision's fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the political subdivision to provide the infrastructure improvements described in subsection (a).

(c) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

Sec. 11. The general assembly finds that Steuben County and the city of Angola face unique challenges because of their fluctuating

population and that the challenges may be addressed through the provisions of this chapter.

SECTION 4. IC 9-18-44-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The bureau of motor vehicles shall, **with the advice of the Native American Indian affairs commission established under IC 4-4-31.4,** design and issue an Indiana Native American trust license plate. The Indiana Native American trust license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

SECTION 5. IC 9-18-44-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The Indiana Native American trust fund is established.

(b) The treasurer of state shall invest the money in the Indiana Native American trust fund not currently needed to meet the obligations of the Indiana Native American trust fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the Indiana Native American trust fund.

(c) The commissioner shall administer the Indiana Native American trust fund. Expenses of administering the Indiana Native American trust fund shall be paid from money in the Indiana Native American trust fund.

(d) On June 30 of each year, the commissioner shall distribute the money from the fund **as follows:**

(1) To ~~The Museums At Prophetstown, Inc.~~ **Historic Prophetstown for a calendar year ending before January 1, 2009.**

(2) To the Native American Indian affairs commission established under IC 4-4-31.4 for a calendar year beginning after December 31, 2008.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) The Native American Indian affairs commission may use money received under this section for any lawful purpose of the Native American Indian affairs commission.

SECTION 6. IC 14-14-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. The commission may periodically provide by resolution for the issuance of ~~park revenue~~

bonds of the commission for the purpose of paying all or any part of the cost of at least one (1) park project. The principal of and the interest on the bonds is payable ~~solely~~ from:

(1) the **park** revenues; **or**

(2) any other revenues;

specifically pledged **or committed by statute** to the payment of the principal and interest.

SECTION 7. **An emergency is declared for this act.**

P.L.97-2008

[H.1318. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning health and to make an appropriation.

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

SECTION 1. IC 9-29-5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. (a) This section applies after December 31, 2008.**

(b) In addition to the fees to be collected for the registration of a vehicle as set forth in:

(1) IC 9-29-5-1; and

(2) IC 9-29-5-2;

the bureau shall collect an additional fee of thirty cents ($0.30) at the time of the registration. The fee collected under this subsection shall be deposited into the spinal cord and brain injury fund under IC 16-41-42.2-3.

(c) In addition to the fees to be collected for the registration of a truck greater than zero (0) pounds declared gross weight but equal to or less than ten thousand (10,000) pounds declared gross weight, as set forth in section 3 of this chapter, the bureau shall collect an additional fee of thirty cents ($0.30) at the time of the

registration. The fee collected under this subsection shall be deposited into the spinal cord and brain injury fund under IC 16-41-42.2-3.

SECTION 2. IC 9-29-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The annual registration fee for a passenger motor vehicle is twelve dollars ~~($12).~~ **and thirty cents ($12.30), including after December 31, 2008, the fee set forth in section 0.5(b) of this chapter.**

SECTION 3. IC 9-29-5-2, AS AMENDED BY P.L.234-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a) This subsection expires December 31, 2008.** The fee for the registration of a motorcycle is twenty-seven dollars ($27). The revenue from this fee shall be allocated as follows:

(1) Seven dollars ($7) to the motorcycle operator safety education fund established by IC 20-30-13-11.

(2) An amount prescribed as a license branch service charge under IC 9-29-3.

(3) Ten dollars ($10) to the spinal cord and brain injury fund ~~under IC 16-41-42-4.~~ **established by IC 16-41-42.2-3.**

(4) The balance to the state general fund for credit to the motor vehicle highway account.

(b) This subsection applies after December 31, 2008. The fee for the registration of a motorcycle is seventeen dollars and thirty cents ($17.30). The revenue from this fee shall be allocated as follows:

(1) Seven dollars ($7) to the motorcycle operator safety education fund established by IC 20-30-13-11.

(2) An amount prescribed as a license branch service charge under IC 9-29-3.

(3) Thirty cents ($0.30) to the spinal cord and brain injury fund under IC 16-41-42.2-3, as provided under section 0.5 of this chapter.

(4) The balance to the state general fund for credit to the motor vehicle highway account.

SECTION 4. IC 9-29-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a)** Except as otherwise provided in this chapter, the annual registration fee for:

(1) a truck subject to registration under IC 9-18; and

(2) a tractor not used with a semitrailer, a traction engine, or other similar vehicle used for hauling purposes;

is as follows:

Declared Gross Weight (Pounds)		Fee
Greater than	Equal to or less than	
0	7,000	$ 20
7,000	9,000	40
9,000	10,000	70
10,000	11,000	75
11,000	16,000	135
16,000	20,000	175
20,000	23,000	235
23,000	26,000	235
26,000	30,000	295
30,000	36,000	413
36,000	42,000	506
42,000	48,000	627
48,000	54,000	730
54,000	60,000	810
60,000	66,000	858
66,000		956

(b) In addition to the annual registration fee set forth in subsection (a), an additional registration fee of thirty cents ($0.30) shall be collected after December 31, 2008, for a truck greater than zero (0) pounds declared gross weight but equal to or less than ten thousand (10,000) pounds declared gross weight.

SECTION 5. IC 16-41-42.2-3, AS ADDED BY HEA 1137-2008, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The spinal cord and brain injury fund is established to fund research on spinal cord and brain injuries.

(b) The fund shall be administered by the state department.

(c) The fund consists of:

(1) appropriations;

(2) gifts and bequests;

(3) fees deposited in the fund ~~under IC 9-29-5-2;~~ **by law;** and

(4) grants received from the federal government or private sources.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The money in the fund is continually appropriated to the state department to fund spinal cord and brain injury research programs.

SECTION 6. IC 33-37-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) This section applies to criminal, infraction, and ordinance violation actions. However, it does not apply to a case excluded under IC 33-37-4-2(d).

(b) The clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a county that has established an alcohol and drug services program.

(c) In each action in which a defendant is found to have:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program fee of ~~three~~ **four** dollars ~~($3).~~ **($4).**

SECTION 7. IC 16-41-42-3, AS ADDED BY P.L.234-2007, SECTION 47, IS REPEALED [EFFECTIVE JULY 1, 2008].

P.L.98-2008
[H.1341. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 4-4-10.9-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. "Person" means any individual ~~partnership, firm, association, joint venture, limited liability company, or corporation~~ **or entity.**

SECTION 2. IC 4-4-11-15, AS AMENDED BY SEA 190-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the affected statutes, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the affected statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the

authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by the affected statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the affected statutes, subject to the conditions upon which the grants or contributions

are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the affected statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 5-28-31-1), rural development project (as defined in IC 5-28-31-20), industrial development project, purpose permitted under IC 13-18-13 and IC 13-18-21, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the affected statutes.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender

containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the affected statutes.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to

safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial development project for any use.

(23) Expend money provided to the authority by the Indiana economic development corporation from the industrial development project guaranty fund created by IC 5-28-30, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on

the bonds.
(31) Adopt rules and guidelines governing its activities authorized under the affected statutes.
(32) Use the proceeds of bonds to make guaranteed participating loans.
(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.
(34) Sell and guarantee securities.
(35) Make guaranteed participating loans under IC 4-4-21-26.
(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of the affected statutes.
(38) Provide financial counseling services to Indiana exporters.
(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.
(42) Cooperate with the Indiana economic development corporation in taking any actions necessary for the administration of the agricultural loan and rural development project guarantee fund established by IC 5-28-31.
(43) In cooperation with the Indiana economic development corporation, take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the Indiana economic development corporation the acquisition is necessary to

safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money provided to the authority by the Indiana economic development corporation from the agricultural loan and rural development project guarantee fund created by IC 5-28-31, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(51) Do any act necessary or convenient to the exercise of the

powers granted by the affected statutes, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana housing and community development authority established by IC 5-20-1-3, the **ports of** Indiana ~~port commission~~ established under ~~IC 8-10-1,~~ **IC 8-10-1-3,** and the state fair commission established by IC 15-13-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the **ports of** Indiana, ~~port commission,~~ and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 3. IC 5-14-1.5-6.1, AS AMENDED BY SEA 190-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) As used in this section, "public official" means a person:

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

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

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

(1) Where authorized by federal or state statute.

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

(A) Collective bargaining.

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

(C) The implementation of security systems.

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

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

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

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

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

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

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

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

(i) a physician; or

(ii) a school bus driver.

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

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

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

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

(A) Develop a list of prospective appointees.

(B) Consider applications.

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

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

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

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

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

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

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

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

SECTION 4. IC 5-14-3-4, AS AMENDED BY SEA 207-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

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

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

(4) Records containing trade secrets.

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

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

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

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

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

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

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

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

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

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

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

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

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

(A) a public agency;

(B) the state; or

(C) an individual.

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

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

(5) The following:

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

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

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

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

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

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

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

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

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

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

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

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and

surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant

contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) the victim of a crime; or

(iii) a family member of a correctional officer or the victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 5. IC 5-14-3-4.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.9. (a) Records relating to negotiations between the ports of Indiana and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the ports of Indiana if the records are created while negotiations are in progress.**

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the ports of Indiana to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the ports of Indiana shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

SECTION 6. IC 6-1.1-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "commission" refers to the **ports of** Indiana ~~port commission~~ established by ~~IC 8-10-1.~~ **IC 8-10-1-3.**

SECTION 7. IC 6-1.1-40-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "district" means a geographic territory designated as a maritime opportunity district by the **ports of** Indiana ~~port commission~~ under section 7 of this chapter.

SECTION 8. IC 6-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) As used in this section, "export income" means the gross receipts from the sale, transfer, or exchange of tangible personal property destined for international markets that is:

(1) manufactured at a plant located within a maritime opportunity district established under IC 6-1.1-40; and

(2) shipped through a port operated by the state.

(b) As used in this section, "export sales ratio" means the quotient of:

(1) the taxpayer's export income; divided by

(2) the taxpayer's gross receipts from the sale, transfer, or exchange of tangible personal property, regardless of its destination.

(c) As used in this section, "taxpayer" means a person or corporation that has export income.

(d) The **ports of** Indiana ~~port commission~~ established by ~~IC 8-10-1~~ **IC 8-10-1-3** shall notify the department when a maritime opportunity district is established under IC 6-1.1-40. The notice must include:

(1) the resolution passed by the commission to establish the district; and

(2) a list of all taxpayers located in the district.

(e) The ~~port commission~~ **ports of Indiana** shall also notify the department of any subsequent changes in the list of taxpayers located in the district.

(f) A taxpayer is entitled to a deduction from the taxpayer's adjusted gross income in an amount equal to the lesser of:

(1) the taxpayer's adjusted gross income; or

(2) the product of the export sales ratio multiplied by the percentage set forth in subsection (g).

(g) The percentage to be used in determining the amount a taxpayer is entitled to deduct under this section depends upon the number of years that the taxpayer could have taken a deduction under this section. The percentage to be used in subsection (f) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st through 4th	100%
5th	80%
6th	60%
7th	40%
8th	20%
9th and thereafter	0%

(h) The department shall determine, for each taxpayer claiming a deduction under this section, the taxpayer's export sales ratio for purposes of IC 6-1.1-40. The department shall certify the amount of the ratio to the department of local government finance.

SECTION 9. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. In order to promote the agricultural, industrial, and commercial development of the state and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port system with terminal facilities to accommodate water, rail, truck, air-borne, and other forms of transportation, the **ports of** Indiana ~~Port Commission~~ is hereby authorized and empowered to construct, maintain, and operate, in cooperation with the federal government, or otherwise, at such locations as shall be approved by the governor, projects, including without limitation public ports with terminal facilities and traffic exchange points throughout Indiana for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from all forms of transportation, and

~~to~~ issue revenue bonds of the state payable solely from revenues to pay the cost of such projects. The ~~commission's~~ **ports of Indiana's** powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

SECTION 10. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the ~~Indiana Port~~ commission created by ~~section 3~~ **section 3(b)** of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include any combination of:

(1) any place or places on Lake Michigan, the Ohio River, the Wabash River, or other water bodies, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded, or accommodated; and

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The word "project" shall include:

(1) any facilities, adjuncts, and appurtenances necessary or useful to operate a modern port, whether or not permanently situated at the port, including:

(A) the dredging of approaches to a port; and

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries,

maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the ~~commission,~~ **ports of Indiana** and other buildings and facilities which the ~~commission~~ **ports of Indiana** may deem necessary for the operation of the port; and

(2) any other project located in Indiana, other than at a port, that the ~~commission~~ **ports of Indiana** finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or project means:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the ~~commission~~ **ports of Indiana** for construction;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved;

(4) the cost of relocating public roads;

(5) the cost of land or easements for roads;

(6) the cost of all machinery and equipment;

(7) financing charges;

(8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;

(9) the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;

(10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(11) administrative expense;

(12) other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of the acquisition or construction, and the placing of the project in operation, including the amount authorized in the resolution of the

~~port~~ commission providing for the issuance of ~~port commission~~ revenue bonds to be paid into any special funds from the proceeds of the bonds; and

(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of ~~port commission~~ revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements, and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys, and all other funds coming into the possession or under the control of the ~~commission~~ **ports of Indiana** by virtue of the terms and provisions of this article, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(h) "Ports of Indiana" means the ports of Indiana created by section 3(a) of this chapter.

SECTION 11. IC 8-10-1-3, AS AMENDED BY P.L.235-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby~~ **The ports of Indiana is** created ~~is~~ **as** a body both corporate and politic in the state of Indiana, and the exercise ~~by the commission~~ of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state. ~~but the commission shall not however be immune from liability by reason thereof.~~

(b) The ~~commission~~ **ports of Indiana** shall ~~consist~~ **be governed by a commission consisting** of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term **and until a successor is duly appointed and qualified,** and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of ~~such~~ **the** commission. The commission shall ~~thereafter~~ elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. ~~No~~ **A** vacancy in the membership of the commission ~~shall~~ **does not** impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission;

(2) the secretary-treasurer; and

(3) any other employee or agent of the ~~commission~~ **ports of Indiana** authorized by resolution of the commission to handle

funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the individual's duties, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments. ~~However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence.~~

(e) Each member shall be reimbursed for the member's actual expenses necessarily incurred in the performance of the member's duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the ~~commission~~ **ports of Indiana** hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

(g) The commission:

(1) is responsible for implementing the powers and duties of the ports of Indiana under this article; and

(2) may adopt bylaws for the regulation of the affairs of the commission and the conduct of the business of the ports of Indiana.

The commission may delegate to staff, including the chief executive, such administrative functions as the commission deems necessary or desirable to accomplish the purposes of the ports of Indiana under this article. The chief executive may delegate the chief executive's authority to the appropriate staff.

SECTION 12. IC 8-10-1-4, AS AMENDED BY P.L.232-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Revenue bonds issued under the provisions of

this article:

(1) do not constitute a debt of the ~~commission,~~ **ports of Indiana,** the state, or any political subdivision of the state, or a pledge of the faith and credit of the ~~commission,~~ **ports of Indiana,** the state, or any political subdivision of the state;

(2) are payable solely from the funds pledged for their payment as authorized in this article, unless the bonds are refunded by refunding bonds issued under the provisions of this chapter, which shall be payable solely from funds pledged for their payment as authorized in this article; and

(3) must contain on their face a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the ~~commission,~~ **ports of Indiana,** the state, or of any political subdivision of the state, but are payable solely from revenues pledged for their payment.

All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under the authority of this article and nothing in this article shall be construed to authorize the ~~commission~~ **ports of Indiana** to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

SECTION 13. IC 8-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. Except as specifically authorized by the general assembly, the ~~commission~~ **ports of Indiana** may not pledge, in any form, to:

(1) seek funding from the state in the event of any default in the payment of revenue bonds; or

(2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

SECTION 14. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The **ports of** Indiana ~~port commission~~ may:

(1) prepare sketches, plans, and descriptive material relating to ports or projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers

necessary to promote the ports or projects and deems to be in the public interest;

(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire suitable sites for ports or projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the ~~commission,~~ **ports of Indiana,** best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port or project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 15. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The ~~commission~~ **ports of Indiana** is authorized and empowered to do the following:

~~(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.~~

~~(2)~~ **(1)** To adopt an official seal which shall not be the seal of the state of Indiana.

~~(3)~~ **(2)** To maintain a principal office and sub-offices at such place or places within the state as it may designate.

~~(4)~~ **(3)** To sue and be sued, and to plead and be impleaded in ~~its own~~ **the** name **of the ports of Indiana.** However, actions at law against the ~~commission~~ **ports of Indiana** shall be brought in the circuit court of the county in which the principal office of the ~~commission~~ **ports of Indiana** is located or in the circuit court of

the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the ~~commission~~ **ports of Indiana** by leaving a copy thereof at the principal office of the ~~commission~~ **ports of Indiana** with the person in charge thereof or with the secretary of the ~~commission.~~ **ports of Indiana.** However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

~~(5)~~ **(4)** To acquire, lease, construct, maintain, repair, police, and operate a port or project as provided in this chapter, and to establish rules and regulations for the use of the port or project, and other property subject to the jurisdiction and control of the ~~commission.~~ **ports of Indiana.**

~~(6)~~ **(5)** To issue both taxable and tax exempt revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or project.

~~(7)~~ **(6)** To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or project.

~~(8)~~ **(7)** To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or project.

~~(9)~~ **(8)** To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

~~(10)~~ **(9)** To designate the location and establish, limit, and control points of ingress to and egress from a port or project.

~~(11)~~ **(10)** To lease to others for development or operation such portions of any port or project, on such terms and conditions as the ~~commission~~ **ports of Indiana** shall deem advisable.

~~(12)~~ **(11)** To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars ($25,000), the

~~commission~~ **ports of Indiana** shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in the county where the construction will occur and in such other publications as the ~~commission~~ **ports of Indiana** shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The ~~commission~~ **ports of Indiana** may reject any and all bids. A bond with good and sufficient surety as shall be approved by the ~~commission,~~ **ports of Indiana** shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

~~(13)~~ **(12)** To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(14)~~ **(13)** To employ ~~an executive director or manager~~ **a chief executive,** consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation **and title,** but no compensation of any employee of the ~~commission~~ **ports of Indiana** shall exceed the compensation of the highest paid officer or employee of the state.

~~(15)~~ **(14)** To receive and accept from any federal agency grants for or in aid of the construction of any port or project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(16)~~ **(15)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(17)~~ **(16)** To do all acts and things necessary or proper to carry out the powers expressly granted in this article.

~~(18)~~ **(17)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the ~~commission.~~ **ports of Indiana.**

SECTION 16. IC 8-10-1-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.1. (a) The ~~commission~~ **ports of Indiana** shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

SECTION 17. IC 8-10-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. The department of natural resources may establish and maintain, within all ports created under this chapter and in operation on July 1, 1975, areas for the use of the citizens of this state for public fishing from the shore. The ~~commission~~ **ports of Indiana** shall cooperate fully with the department of natural resources in the implementation of this section. However, if the site of any public fishing area established under this section is subsequently leased to others for agricultural, industrial, or commercial purposes, **or if required to maintain port security,** the ~~commission~~ **ports of Indiana** may limit or halt public fishing in that area.

SECTION 18. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. If the ~~commission~~ **ports of Indiana** shall find it necessary to change the location of any portion of any public road, highway, railroad, or public utility facility, ~~it~~ **the ports of Indiana** shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The

cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the ~~commission~~ **ports of Indiana** as a part of the cost of the port or project. The ~~commission~~ **ports of Indiana** shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the ~~commission~~ **ports of Indiana** and ~~its~~ **the** authorized agents and employees **of the ports of Indiana** after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this article, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The ~~commission~~ **ports of Indiana** shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by ~~it,~~ **the state of Indiana,** including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or project, provided adequate compensation is made for such use. The ~~commission~~ **ports of Indiana** shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and

appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or project. Whenever the ~~commission~~ **ports of Indiana** shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any port or project should be relocated or should be removed from the port or project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the ~~commission.~~ **ports of Indiana.** However, the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the ~~commission~~ **ports of Indiana** as a part of the cost of the port or project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as ~~it~~ **the public utility** had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 19. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The ~~commission~~ **ports of Indiana** shall have power to adopt such by-laws, rules and regulations as ~~it~~ **the ports of Indiana** may deem advisable for the control and regulation of any port or project or traffic on any port or project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the ~~commission~~ **ports of Indiana** shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the ~~commission~~ **ports of Indiana** without

the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the ~~commission~~ **ports of Indiana** commits a Class C infraction.

SECTION 20. IC 8-10-1-10, AS AMENDED BY P.L.232-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~commission~~ **ports of Indiana** is hereby authorized and empowered to acquire by purchase whenever ~~it~~ **the ports of Indiana** shall deem such purchase expedient, any land, property, rights, rights of way, franchises, easements, and other interests in lands, including lands under water and riparian rights, as ~~it~~ **the ports of Indiana** may deem necessary or convenient for the construction and operation of any port or project, upon such terms and at such price as may be considered by ~~it~~ **the ports of Indiana** to be reasonable and can be agreed upon between the ~~commission~~ **ports of Indiana** and the owner thereof, and to take title thereto in the name of the state.

(b) The ~~commission~~ **ports of Indiana** is hereby further authorized and empowered to sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. The ~~commission~~ **ports of Indiana** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or project, or as otherwise required under the provisions of this article. However, no such sale shall be made without first obtaining the approval of the governor, and a sale may not be made at less than the appraised value established by three (3) independent appraisers appointed by the governor. The ~~commission~~ **ports of Indiana** shall be authorized to restrict the use of any land so sold by ~~it~~ **the ports of Indiana** and provide for a reversion to the ~~commission~~ **ports of Indiana** in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The ~~commission~~ **ports of Indiana** shall also be authorized to lease, or grant options to lease, to others for development any portion

of the land owned by the ~~commission,~~ **ports of Indiana,** on such terms as the ~~commission~~ **ports of Indiana** shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the ~~commission~~ **ports of Indiana** shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ports, terminal facilities, and projects under the jurisdiction or control of the ~~commission.~~ **ports of Indiana.** In the event the ~~commission~~ **ports of Indiana** shall lease to others a building or structure financed by the issuance of revenue bonds under IC 8-10-4, the transaction must be structured as a self-liquidating or nonrecourse project (as defined in IC 8-10-4-1).

(d) No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the ~~commission,~~ **ports of Indiana,** a port, a project, or the state, unless a written agreement entered into by the ~~commission~~ **ports of Indiana** expressly provides:

(1) the exact nature and extent of the right, claim, title, or interest;

(2) all the conditions under which the right, claim, title, or interest is granted; and

(3) a legal or complete description of the specific property.

SECTION 21. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The ~~commission~~ **ports of Indiana** is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or project. The ~~commission~~ **ports of Indiana** shall also be empowered to exercise such powers of eminent domain as may be conferred upon the ~~commission~~ **ports of Indiana** by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the ~~commission~~ **ports of Indiana** to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein

shall authorize the ~~commission~~ **ports of Indiana** to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the ~~commission~~ **ports of Indiana** excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 22. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the following:

(1) Acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.

(2) Studies in connection with the port or project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the ~~commission.~~ **ports of Indiana.**

The fund shall be held in the name of the **ports of** Indiana, ~~port commission,~~ shall be administered by the ~~commission,~~ **ports of Indiana,** and all expenditures therefrom shall be made by the ~~commission,~~ **ports of Indiana,** subject, however, to the approval by governor and the ~~state~~ budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. ~~All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are~~

~~hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others. However, not to exceed one hundred thousand dollars ($100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.~~

(b) Upon the sale of revenue bonds for any port or project, the funds expended from the Indiana port fund in connection with the development of such port or project and any obligation or expense incurred by the ~~commission~~ **ports of Indiana** for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such port or project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 23. IC 8-10-1-13, AS AMENDED BY P.L.2-2007, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Subject to the approval of the governor, the ~~commission~~ **ports of Indiana** is hereby authorized to provide by resolution **of the commission,** at one (1) time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding thirty-five (35) years from the date thereof, as may be determined by the ~~commission,~~ **ports of Indiana,** and may be made redeemable before maturity, at the option of the ~~commission,~~ **ports of Indiana,** at such price or prices and under such terms and conditions as may be fixed by the ~~commission~~ **ports of Indiana** in the authorizing resolution.

(b) The ~~commission~~ **ports of Indiana** shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the ~~commission,~~ **ports of Indiana** by ~~its~~ **the** chairman or vice chairman **of the commission or chief executive of the ports of Indiana,** or by the facsimile signature of ~~such~~ **the** chairman or vice chairman **of the commission or chief executive of the ports of Indiana** and the official seal of the ~~commission,~~ **ports of Indiana** or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the ~~commission~~ **ports of Indiana** may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 21-32-3, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the ~~commission~~ **ports of Indiana** under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The ~~commission~~ **ports of Indiana** shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 24. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port or project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any,

as the ~~commission~~ **ports of Indiana** may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port or project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the ~~commission~~ **ports of Indiana** may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The ~~commission~~ **ports of Indiana** may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this article may be issued under the provisions of this article without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 25. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The ~~commission~~ **ports of Indiana** is hereby authorized to provide by resolution for the issuance of refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of section 13 of this chapter or IC 8-10-4-2, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the ~~commission,~~ **ports of Indiana,** for the additional purpose of constructing improvements, extensions, or enlargements of the port or project in connection with which the bonds to be refunded shall have been issued. The issuance

of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the ~~commission~~ **ports of Indiana** in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

SECTION 26. IC 8-10-1-16, AS AMENDED BY P.L.232-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. In the discretion of the ~~commission~~ **ports of Indiana** any bonds issued under the provisions of this act may be secured by a trust agreement by and between the ~~commission~~ **ports of Indiana** and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, except as provided in IC 8-10-4. Any resolution adopted by the commission providing for the issuance of revenue bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the ~~commission~~ **ports of Indiana** except such part as may be necessary to pay the cost of the ~~commission's~~ **ports of Indiana's** administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the ~~commission,~~ **ports of Indiana,** but the ~~commission~~ **ports of Indiana** shall not convey or mortgage any port or project or any part thereof, except for self liquidating or nonrecourse projects under IC 8-10-4. In authorizing the issuance of bonds for any particular port or project, the ~~commission~~ **ports of Indiana** may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the ~~commission~~ **ports of Indiana** may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port or project on account of which the original bonds were issued, or to provide funds to pay the cost of additional projects undertaken in connection with the development of the port or project, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior thereto. Any pledge or

assignment made by the ~~commission~~ **ports of Indiana** pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the ~~commission~~ **ports of Indiana** shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the ~~commission~~ **ports of Indiana** irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the ~~commission.~~ **ports of Indiana.** Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the ~~commission~~ **ports of Indiana** in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the port or project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges, to be collected for the use of the project, and the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the ~~commission,~~ **ports of Indiana,** to furnish such indemnifying bonds or to pledge such securities as may be required by the ~~commission.~~ **ports of Indiana.** Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the ~~commission~~ **ports of Indiana** may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port or project.

SECTION 27. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. The ~~commission~~ **ports of Indiana** shall be authorized to fix, review, charge, and collect fees, tolls, rentals, and other charges for the use of the ports, projects, terminal facilities, and lands under the jurisdiction or control of the ~~commission~~ **ports of Indiana** or services rendered by the ~~commission,~~ **ports of Indiana,** and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance, and repair of the port or project and terminal facilities, including the administration expenses of the ~~commission,~~ **ports of Indiana,** and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau, or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of the port or project shall be paid into the state general fund.

SECTION 28. IC 8-10-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All money received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter, but prior to the time when needed for use may be invested to the extent and in the manner provided by IC 5-13-10.5, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the ~~commission,~~ **ports of Indiana,** in the manner provided by the governing statutes in so far as applicable. The resolution **of the commission** authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such money shall be entrusted, shall act as trustee of such money and shall hold and apply the same for the purposes hereof, subject to the provisions of this chapter and of the authorizing resolution or trust agreement.

SECTION 29. IC 8-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the ~~commission~~ **ports of Indiana** or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or project.

SECTION 30. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. Each port or project, as defined in section 2 of this chapter, when constructed and placed in operation shall be maintained and kept in good condition and repair by the ~~commission.~~ **ports of Indiana.** Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the ~~commission~~ **ports of Indiana** may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 31. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. All counties, cities, towns, townships, and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the ~~commission~~ **ports of Indiana** at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court, or other action or formality, other than the regular and formal action of the

authorities concerned, any real or personal property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the ~~commission.~~ **ports of Indiana.**

SECTION 32. IC 8-10-1-22, AS AMENDED BY P.L.235-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) The ~~commission~~ **ports of Indiana** shall cause an audit of its books and accounts to be made at least once each year by certified public accountants, and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~commission's~~ ports and projects **of the ports of Indiana.** The accounts, books, and records of the **ports of** Indiana ~~port commission~~ shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~commission's~~ ports and projects **of the ports of Indiana.**

(b) The ~~commission~~ **ports of Indiana** shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. Each report shall set forth a complete operating and financial statement for the ~~commission~~ **ports of Indiana** during the fiscal year it covers.

SECTION 33. IC 8-10-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. A member, agent, or employee of the ~~commission~~ **ports of Indiana** who knowingly is interested in any contract with the ~~commission,~~ **ports of Indiana,** or in the sale of any property, either real or personal, to the ~~commission,~~ **ports of Indiana,** commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the ~~commission~~ **ports of Indiana** and other departments, municipalities, or subdivisions of state government.

SECTION 34. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. Revenue bonds issued by the ~~commission~~ **ports of Indiana** under the provisions of this article shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building

and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. The bonds are also made securities that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of Indiana is now or may be later authorized by law.

SECTION 35. IC 8-10-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. All final actions of the ~~commission~~ **ports of Indiana** shall be journalized and said journal shall be open to the inspection of the public at all reasonable times.

SECTION 36. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) The exercise of the powers granted by this article will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port or project by the ~~commission~~ **ports of Indiana** will constitute the performance of essential governmental functions, the ~~commission~~ **ports of Indiana** shall not be required to pay any taxes or assessments upon any port or project or any property acquired or used by the ~~commission~~ **ports of Indiana** under the provisions of this article or upon the income therefrom. The bonds issued by the ~~commission,~~ **ports of Indiana,** the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the ~~commission~~ **ports of Indiana** is exempt from property taxation.

However, an exemption under this subsection is not available for land not located at a port.

SECTION 37. IC 8-10-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. (a) Unless the ~~commission~~ **ports of Indiana** ~~publicly~~ declares an emergency, ~~it~~ **the ports of Indiana** may not during any six (6) month period make separate contracts with another party for similar construction projects or the purchase of similar equipment, materials, or supplies under IC 8-10-1-7(5) without advertising for and accepting public bids, if the aggregate cost of the separate contracts is more than twenty-five thousand dollars ($25,000).

(b) A commission member **or an employee of the ports of Indiana** who knowingly violates subsection (a) commits a Class D felony.

(c) A person who accepts a contract with the ~~commission~~ **ports of Indiana** knowing that subsection (a) was violated in connection with the contract commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of the person's conviction.

SECTION 38. IC 8-10-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the ~~commission~~ **ports of Indiana** to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The ~~commission~~ **ports of Indiana** is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.

SECTION 39. IC 8-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.**

(b) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission,~~ **ports of Indiana,** in order to promote the agricultural, industrial, and commercial development of the state or to provide for the general

welfare, and in order to connect any port under its jurisdiction with any other waterway or as part of a plan to ultimately connect such port with any other waterway, shall have the power and is hereby authorized, in cooperation with the federal government or otherwise, to construct a new canal or canals or to improve any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of shipping channels, canals, and turning basins in a manner to accommodate water-borne transportation and the construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. In exercising the powers hereby granted, the ~~commission~~ **ports of Indiana** shall have only such powers granted to it by this article in connection with a port project as may relate to the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, and the term "port project", as used in this article, shall be deemed to include the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. ~~provided,~~ However, ~~that~~ the ~~commission~~ **ports of Indiana** shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharfs, piers, boat docks, warehouses, and pipeline equipment resulting from such construction and other activities. Nothing in this section shall authorize the **ports of** Indiana ~~port commission~~ to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port.

SECTION 40. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission,~~ **ports of Indiana,** whenever ~~it~~ **the ports of Indiana** finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any

other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the ~~commission~~ **ports of Indiana** further finds will increase the traffic into or out of the project. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the ~~commission~~ **ports of Indiana** shall have all the powers granted to it by this article, in connection with a project, and the term "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the **ports of** Indiana ~~port commission~~ to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The **ports of** Indiana ~~port commission~~ shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 41. IC 8-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Subject to the approval of the governor, the ~~state~~ budget agency, and the ~~state~~ budget committee, the **ports of** Indiana ~~port commission~~ may, notwithstanding the provisions of IC 8-10-1-12 or the provisions of any other statute relating to or appropriating money to the Indiana port fund, expend moneys without further appropriation than the provisions of this chapter from the Indiana port fund for the operation and maintenance of a "port" or "port project" as those terms are defined in this article, and in connection with the issuance of bonds, may covenant to set aside and may set aside moneys from the Indiana port fund in a separate fund or account with a corporate trustee or otherwise to be applied on the

cost of such operation and maintenance.

SECTION 42. IC 8-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.**

(b) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, the ~~commission~~ **ports of Indiana** shall have the power whenever ~~it~~ **the ports of Indiana** finds it either desirable or necessary in order to increase the water borne traffic into or out of the port to acquire, lease, construct, maintain, repair, and police facilities, adjuncts, and appurtenances for use in the business of in transit processing, finishing, reduction, conversion, completion, packaging, bottling, transshipment, or handling of commodities. In exercising the powers granted in this section, the ~~commission~~ **ports of Indiana** shall have all the powers granted to ~~it~~ **the ports of Indiana** by this article in connection with a port project, and the term "port project", as used in this article, shall be deemed and construed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

SECTION 43. IC 8-10-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~Such~~ **The ports of** Indiana, ~~port commission,~~ or a public or private agency or corporation of the state of Indiana designated by the **ports of** Indiana, ~~port commission,~~ is hereby authorized to make application to the board established by the act of Congress approved June 18, 1934 (48 Stat. 998-1003; 19 United States Code 81a-81u) (Public Law 397, 73rd Congress) entitled "an act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States to expedite and encourage foreign commerce and other purposes," and all acts amendatory thereto, for a grant to ~~such~~ **the ports of** Indiana, ~~port commission,~~ or a public or private agency or corporation of the state of Indiana designated by the **ports of** Indiana, ~~port commission,~~ of the privilege of establishing, operating, and maintaining a foreign-trade zone at such places within the state of Indiana as ~~such commission~~ **the ports of Indiana** may determine, including lake ports, river ports, and elsewhere, pursuant to the provisions of such act, and if such application be granted to accept such grant and to establish, operate, and maintain such zone in accordance

with law.

SECTION 44. IC 8-10-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~Such~~ **The ports of** Indiana ~~port commission~~ in any appropriation of property, under the provisions of the appropriate eminent domain law, may take either a fee simple title in any property, or easement, or right-of-way, or riparian right, or any other estate therein as in any particular instance as to any parcel of property may be deemed necessary by the ~~commission.~~ **ports of Indiana.**

SECTION 45. IC 8-10-4-1, AS AMENDED BY P.L.232-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) As used in this chapter, "self-liquidating or nonrecourse project" means:

(1) a project for which a lease or leases have been executed providing for payment in an amount the ~~commission~~ **ports of Indiana** determines to be sufficient to pay:

(A) the interest and principal of the bonds to be issued to finance the cost of the project; and

(B) all costs of maintenance, repair, and insurance of the project; or

(2) a project that is structured in such a manner that the ~~commission~~ **ports of Indiana** determines there is no recourse against the state or the **ports of** Indiana. ~~port commission.~~

(b) Other words and terms used in this chapter shall have the same meaning as in **IC 8-10-1-2 and the** other provisions of this article, unless otherwise specifically provided.

SECTION 46. IC 8-10-4-2, AS AMENDED BY P.L.2-2007, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the powers conferred upon the **ports of** Indiana ~~port commission~~ by other provisions of this article, and subject to subsection (b), the ~~commission,~~ **ports of Indiana,** in connection with any self-liquidating or nonrecourse project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(1) The revenue bonds issued by the ~~commission~~ **ports of Indiana** to finance the cost of such self-liquidating or nonrecourse project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(2) The revenue bonds issued by the ~~commission~~ **ports of Indiana** to finance the cost of such self-liquidating or nonrecourse project may be sold in such manner, either at public or private sale, as the ~~commission~~ **ports of Indiana** may determine, and the provisions of IC 21-32-3 shall not be applicable to such sale.

(3) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a self-liquidating or nonrecourse project.

(b) The issuance of revenue bonds by the ~~commission~~ **ports of Indiana** under this chapter is subject to the approval of the governor.

SECTION 47. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Any lease of a project may provide that the lessee, as its reasonable portion of the ~~commission's~~ **ports of Indiana's** administrative expense incurred **by the ports of Indiana** during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the ~~commission~~ **ports of Indiana** for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the ~~commission.~~ **ports of Indiana.**

SECTION 48. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The cost of any project may include, instead of the cost of the acquisition of the land constituting the site of such project, the value of such land as determined by the ~~commission.~~ **ports of Indiana.** The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 49. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The ~~commission~~ **ports of Indiana** may contract for the use of any license, process or device, whether patented or not, which the ~~commission~~ **ports of Indiana** finds is necessary for the operation of any project, and may permit the use thereof by any lessee on such terms and conditions as the ~~commission~~ **ports of Indiana** may determine. The cost of such license, process, or device may be included as part of the cost of the project.

SECTION 50. IC 8-15.7-8-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. For the purpose of financing a qualifying project, the operator and the authority or the department may do the following:

(1) Propose to use all or part of the revenues available to them.

(2) Enter into grant agreements.

(3) Access any designated transportation trust funds.

(4) Access any other funds available to the authority or the department and the operator.

(5) Accept grants from the authority, the ~~port commission,~~ **ports of Indiana,** any other state infrastructure bank, or any other agency or entity.

SECTION 51. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "Indiana port commission" means the Indiana port commission established by IC 8-10-1-3, as in effect before the effective date of this act.**

(b) As used in this SECTION, "ports of Indiana" means the ports of Indiana established by IC 8-10-1-3, as amended by this act.

(c) After June 30, 2008, a reference to the Indiana port commission in a statute, a rule, or other document is considered a reference to the ports of Indiana, as the successor entity.

SECTION 52. **An emergency is declared for this act.**

P.L.99-2008

[S.31. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-23-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2008]: **Sec. 9. (a) The department may establish the approximate locations, using the recommended widths established by the department in the department's approved design manual for equivalent classification of roads, of rights-of-way for additions to the state highway system.**

(b) If the department establishes the approximate locations and widths of rights-of-way for an addition to the state highway system under subsection (a), the department shall conduct a public hearing in at least one (1) county in which a right-of-way for the addition is located. The department shall publish notice of a hearing conducted under this subsection in two (2) newspapers of general circulation in the county in which the hearing will be conducted at least ten (10) days before the hearing. If only one (1) newspaper is published in the county, publication in that newspaper is sufficient. Notice of the hearing shall be given by mail to all owners of real property identified within the rights-of-way shown on the map prepared under subsection (c).

(c) If the department establishes the approximate locations and widths of rights-of-way for an addition to the state highway system under subsection (a), the department shall prepare a map showing the approximate location and width of each right-of-way for the proposed addition. The map must display the following:

(1) Existing highways in the area of the addition.

(2) Property lines and owners of record of property to be acquired for the rights-of-way.

(3) Other information determined necessary by the department.

The department shall approve the map, with changes (if applicable), at the public hearing conducted under subsection (b). The department shall record the approval and a copy of the approved map in the office of the recorder of each county in which land to be acquired for the addition is located.

(d) The department shall:

(1) publish notice of a recording under subsection (c) in two (2) newspapers of general circulation in each county in which an approval is recorded; however, if only one (1) newspaper is published in the county, publication in that newspaper is sufficient; and

(2) not more than sixty (60) days after an approval is

recorded, send notice of the recording by certified mail to all owners of record of real property to be acquired for rights-of-way for the addition.

(e) The owner of property to be acquired for a right-of-way must give at least sixty (60) days notice by registered mail to the department before developing or otherwise improving the property. However, the owner may perform normal or emergency repairs to existing structures on the property without giving notice to the department.

(f) Not more than forty-five (45) days after receiving a notice under subsection (e), the department shall respond by providing notice to the property owner of the department's intent to acquire the property. The department shall:

(1) purchase; or

(2) exercise the right of eminent domain to acquire;

the property not more than one hundred eighty (180) days after responding under this subsection. If the department does not purchase the property or acquire the property by eminent domain within one hundred eighty (180) days after responding under this subsection, the department may subsequently acquire the property through the exercise of the right of eminent domain under IC 32-24.

(g) An owner of property to be acquired for a right-of-way may not receive damages for any development or improvement for which the owner is required to give notice to the department under subsection (e) unless the department fails to purchase or exercise the right of eminent domain to acquire the property under subsection (f).

(h) The state or a county or municipality in which an addition to the state highway system is located may acquire a right-of-way needed for the addition at any time. For purposes of this subsection, the fair market value of the property shall be determined as follows:

(1) If the property is purchased, the fair market value on the date of purchase.

(2) If the property is acquired by eminent domain, the fair market value on the date on which the complaint in condemnation was filed.

However, if the property is agricultural land, the fair market value

shall be determined under IC 32-24-1.

(i) The department shall adopt guidelines to determine whether a project constitutes an addition to the state highway system for purposes of this section. In adopting guidelines under this subsection, the department shall consider the following:

(1) The need for additional capacity.

(2) The estimated cost of the project.

(3) Whether the project is new construction or maintenance.

(j) As used in this section, "owner" does not include a utility.

(k) At the same time and in the same manner as the notice is sent under subsection (d)(2), the department shall notify the owner of property to be acquired for a right-of-way of the following:

(1) With respect to damage that occurs to the property as a result of entry onto the land for a purpose set forth in IC 8-23-7-26:

(A) a description of the owner's right to compensation for the damage from the department; and

(B) the procedure that the owner must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which the owner may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 2. IC 8-23-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. An authorized employee or representative of the department engaged in a survey or investigation authorized by the commissioner or the commissioner's designee, **including a survey or investigation for purposes of IC 8-23-5-9,** may enter upon, over, or under any land or property within Indiana to conduct the survey or investigation by manual or mechanical means, which include the following:

(1) Inspecting.

(2) Measuring.

(3) Leveling.

(4) Boring.

(5) Trenching.

(6) Sample-taking.

(7) Archeological digging.

(8) Investigating soil and foundation.

(9) Transporting equipment.

(10) Any other work necessary to carry out the survey or investigation.

SECTION 3. IC 8-23-7-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. **(a)** Before an authorized employee or representative of the department enters upon, over, or under any land or water under section 26 of this chapter, the occupant of the land or water shall be notified in writing by first class United States mail of the entry not later than five (5) days before the date of entry. The employee or representative of the department shall present written identification or authorization to the occupant of the land or water before entering the land or water.

(b) At the same time and in the same manner as the notice required under subsection (a), the department shall notify the occupant and the record owner of the land or property of the following:

(1) With respect to damage that occurs to the land or property as a result of entry upon, over, or under the land or property as set forth in section 26 of this chapter:

(A) a description of the aggrieved party's right to compensation for the damage from the department; and

(B) the procedure that the aggrieved party must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which an aggrieved party may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 4. IC 8-23-7-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. If during an entry under section 26 of this chapter damage occurs to the land or water as a result of the entry or work performed during the entry, the department shall compensate the aggrieved party. If the aggrieved party is not satisfied with the compensation determined by the department, the amount of damages shall be assessed by the county agricultural extension educator of the county in which the land or water is located and two (2) disinterested residents of the county, one (1) appointed by the aggrieved party and one (1) appointed by the department. A written

report of the assessment of damages shall be mailed to the aggrieved party and the department by first class United States mail. If either the department or the aggrieved party is not satisfied with the assessment of damages, either or both may file a petition, not later than fifteen (15) days after receiving the report, in the circuit or superior court of the county in which the land or water is located. **The department shall pay any compensation awarded to an aggrieved party under this section:**

(1) not more than sixty (60) days after the date on which the parties agree to the amount of the compensation; or

(2) as ordered by the circuit or superior court.

P.L.100-2008

[S.62. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-29-7-3, AS AMENDED BY P.L.240-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period is:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale

may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in IC 33-32-3-2. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars ($10) to one (1) owner and three dollars ($3) to each additional owner for service of written notice under this subsection. The fee is:

(1) a cost of the proceeding;

(2) to be collected as other costs of the proceeding are collected; and

(3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale

~~in at least three (3) public places in each township in which the real estate is situated and~~ at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. The sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

(h) The sheriff may charge an administrative fee of not more than two hundred dollars ($200) with respect to a proceeding referred to in subsection (b) for actual costs directly attributable to the administration of the sale under subsection (c). The fee is:

(1) payable by the person seeking to enforce the judgment and decree; and

(2) due at the time of filing of the praecipe;

under subsection (b).

P.L.101-2008

[S.78. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning probate and trusts.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) For purposes of this article, the "owner" of tangible property shall be determined by using the rules contained in this section.

(b) Except as otherwise provided in this section, the holder of the

legal title to personal property, or the legal title in fee to real property, is the owner of that property.

(c) When title to tangible property passes on the assessment date of any year, only the person obtaining title is the owner of that property on the assessment date.

(d) When the mortgagee of real property is in possession of the mortgaged premises, the mortgagee is the owner of that property.

(e) When personal property is security for a debt and the debtor is in possession of the property, the debtor is the owner of that property.

(f) When a life tenant of real property is in possession of the real property, the life tenant is the owner of that property.

(g) When the grantor of a qualified personal residence trust created under United States Treasury Regulation 25.2702-5(c)(2) is:

(1) in possession of the real property transferred to the trust; and

(2) entitled to occupy the real property rent free under the terms of the trust;

the grantor is the owner of that real property.

SECTION 2. IC 6-1.1-12-17.9, AS ADDED BY P.L.95-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.9. A trust is entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the trust and occupied by an individual if the county auditor determines that the individual:

(1) upon verification in the body of the deed or otherwise, has **either:**

(A) a beneficial interest in the trust; **or**

(B) the right to occupy the real property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(2) otherwise qualifies for the deduction; and

(3) would be considered the owner of the real property under IC 6-1.1-1-9(f) **or IC 6-1.1-1-9(g).**

SECTION 3. IC 6-1.1-20.9-2, AS AMENDED BY P.L.224-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in section

5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 through 2005	20%
2006	28%
2007 and thereafter	20%

However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

(1) an individual uses the residence as the individual's principal place of residence;

(2) the residence is located in Indiana;

(3) the individual:

(A) has a beneficial interest in the taxpayer; **or**

(B) has the right to occupy the residence rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 4. IC 27-8-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) All individual policies of accident and sickness insurance issued for delivery in Indiana after June 30, 1990, must provide for the refund of unused premiums upon the death of the insured during the contract period.

(b) The amount of premium refund shall be prorated from the date following the date of death of the insured to the end of the contract period for which the premium has been paid.

(c) The refund required by this section shall be paid as follows:

(1) If a person other than the insured paid the premium, to that person. A person entitled to a refund under this subdivision must furnish proof of payment to the insurer.

(2) If the insured paid the premium, to the surviving spouse of the insured. If there is no surviving spouse, the premium shall be paid in the same manner as distributions of the net estate of a person

who dies intestate under IC 29-1-2-1(d). **A parent disqualified under IC 29-1-2-1(e) from receiving an intestate share of the parent's child's estate is not entitled to a refund under this section of insurance premiums paid by the child.**

(d) A person entitled to receive a refund under this section must do the following:

(1) Submit a written request for the refund.

(2) Furnish proof of the insured's death.

(e) This section does not affect the rights of a dependent under a policy covered by this section to obtain a conversion policy upon the death of the insured.

SECTION 5. IC 29-1-2-1, AS AMENDED BY P.L.61-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The estate of a person dying intestate shall descend and be distributed as provided in this section.

(b) Except as otherwise provided in subsection (c), the surviving spouse shall receive the following share:

(1) One-half (1/2) of the net estate if the intestate is survived by at least one (1) child or by the issue of at least one (1) deceased child.

(2) Three-fourths (3/4) of the net estate, if there is no surviving issue, but the intestate is survived by one (1) or both of the intestate's parents.

(3) All of the net estate, if there is no surviving issue or parent.

(c) If the surviving spouse is a second or other subsequent spouse who did not at any time have children by the decedent, and the decedent left surviving the decedent a child or children or the descendants of a child or children by a previous spouse, the surviving second or subsequent childless spouse shall take only an amount equal to twenty-five percent (25%) of the remainder of:

(1) the fair market value as of the date of death of the real property of the deceased spouse; minus

(2) the value of the liens and encumbrances on the real property of the deceased spouse.

The fee shall, at the decedent's death, vest at once in the decedent's surviving child or children, or the descendants of the decedent's child or children who may be dead. A second or subsequent childless spouse described in this subsection shall, however, receive the same share of

the personal property of the decedent as is provided in subsection (b) with respect to surviving spouses generally.

(d) The share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, shall descend and be distributed as follows:

(1) To the issue of the intestate, if they are all of the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.

(2) **Except as provided in subsection (e),** if there is a surviving spouse but no surviving issue of the intestate, then to the surviving parents of the intestate.

(3) **Except as provided in subsection (e),** if there is no surviving spouse or issue of the intestate, then to the surviving parents, brothers, and sisters, and the issue of deceased brothers and sisters of the intestate. Each living parent of the intestate shall be treated as of the same degree as a brother or sister and shall be entitled to the same share as a brother or sister. However, the share of each parent shall be not less than one-fourth (1/4) of the decedent's net estate. Issue of deceased brothers and sisters shall take by representation.

(4) If there is no surviving parent or brother or sister of the intestate, then to the issue of brothers and sisters. If the distributees described in this subdivision are all in the same degree of kinship to the intestate, they shall take equally or, if of unequal degree, then those of more remote degrees shall take by representation.

(5) If there is no surviving issue or parent of the intestate or issue of a parent, then to the surviving grandparents of the intestate equally.

(6) If there is no surviving issue or parent or issue of a parent, or grandparent of the intestate, then the estate of the decedent shall be divided into that number of shares equal to the sum of:

(A) the number of brothers and sisters of the decedent's parents surviving the decedent; plus

(B) the number of deceased brothers and sisters of the decedent's parents leaving issue surviving both them and the decedent;

and one (1) of the shares shall pass to each of the brothers and sisters of the decedent's parents or their respective issue per stirpes.

(7) If interests in real estate go to a husband and wife under this subsection, the aggregate interests so descending shall be owned by them as tenants by the entireties. Interests in personal property so descending shall be owned as tenants in common.

(8) If there is no person mentioned in subdivisions (1) through (7), then to the state.

(e) A parent may not receive an intestate share of the estate of the parent's minor or adult child if:

(1) the parent was convicted of causing the death of the other parent by:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3);

(C) another criminal act, if the death does not result from the operation of a vehicle; or

(D) a crime in any other jurisdiction in which the elements of the crime are substantially similar to the elements of a crime listed in clauses (A) through (C); and

(2) the victim of the crime is the other parent of the child.

If a parent is disqualified from receiving an intestate share under this subsection, the estate of the deceased child shall be distributed as though the parent had predeceased the child.

SECTION 6. IC 29-1-13-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) Upon the death of an individual, a financial institution shall grant access in the following order of priority to a safe deposit box leased by the individual at the time of the individual's death:**

(1) A surviving joint lessee of the safe deposit box, upon the presentation of proof of the individual's status as a joint lessee.

(2) The personal representative of the individual's estate, upon the presentation of letters testamentary or letters of administration.

(3) The personal representative named in the individual's will, upon the presentation of an affidavit meeting the

requirements of subsection (c) if a probate estate has not been opened.

(4) The trustee of a trust created by the individual that was revocable during the individual's life, upon the presentation of an affidavit meeting the requirements of subsection (c) if a probate estate has not been opened.

(5) Any other individual, upon the presentation of a court order directing access to the safe deposit box.

(b) A person granted access to a safe deposit box under subsection (a) may exercise the following rights:

(1) The right to open the safe deposit box.

(2) The right to remove the contents of the safe deposit box.

(3) The right to cancel the lease for the safe deposit box.

(c) An affidavit required by subsection (a)(3) or (a)(4) must contain the following information:

(1) The name of the individual leasing the safe deposit box and the date of the individual's death.

(2) A statement as to whether the individual died testate or intestate.

(3) The name of the county in which the individual was domiciled at the time of the individual's death.

(4) A statement that no application or petition for the appointment of a personal representative has been granted or is pending in any jurisdiction.

(5) A statement under the penalty of perjury that the affiant is qualified under subsection (a)(3) or (a)(4) to obtain access to the safe deposit box leased by the individual.

(d) Except as provided in subsection (h), a financial institution that is presented with a request for access to a safe deposit box by a person described in subsection (a):

(1) shall grant access to the safe deposit box within three (3) business days of the presentation of the appropriate documentation required by subsection (a); and

(2) is liable to:

(A) the estate of the individual leasing the safe deposit box; or

(B) an individual entitled to access to the safe deposit box under subsection (a);

if it fails to grant access to the safe deposit box within three

(3) business days of the presentation of the appropriate documentation required by subsection (a).

(e) A financial institution that provides access to a safe deposit box under this section is discharged and released from liability and responsibility for the assets held in the safe deposit box. The financial institution is not required to:

(1) inquire into the truth of any statement in an affidavit presented under this section; or

(2) participate in the disposition of the assets held in the safe deposit box.

(f) A plaintiff who prevails in an action:

(1) to compel a financial institution presented with a request for access to a safe deposit box in accordance with this section to accept the authority of the person requesting access; or

(2) for damages arising from a financial institution's refusal to grant the requested access;

is entitled to recover the amounts specified in subsection (g).

(g) A prevailing plaintiff described in subsection (f) is entitled to the following:

(1) Three (3) times the amount of the actual damages.

(2) Attorney's fees and court costs.

(3) Prejudgment interest on the actual damages calculated from the date that the appropriate documentation was presented to the financial institution under subsection (a).

(h) If a financial institution requires the services of a locksmith or other contractor to gain access to a safe deposit box, the financial institution has five (5) additional business days to comply with the requirements of subsection (d).

SECTION 7. IC 29-3-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) By a properly executed power of attorney, a parent **of a minor** or a guardian (other than a temporary guardian) of ~~an incapacitated person or minor,~~ **a protected person** may delegate to another person for:

(1) any period during which the care and custody of the **minor or** protected person is entrusted to an institution furnishing care, custody, education, **or** training; or

(2) a period not exceeding ~~sixty (60) days during which the parent or guardian is physically incapacitated or absent from the parent's~~

~~or guardian's residence;~~ **twelve (12) months;**

any powers regarding support, custody, or property of the **minor or** protected person, except the power to consent to the marriage or adoption of a protected person who is a minor.

(b) A person having a power of attorney executed under subsection (a) has and shall exercise, for the period during which the power is effective, all other authority of the parent or guardian respecting the support, custody, or property of the **minor or** protected person except any authority expressly excluded in the written instrument delegating the power. However, the parent or guardian remains responsible for any act or omission of the person having the power of attorney with respect to the affairs, property, and person of the **minor or** protected person as though the power of attorney had never been executed.

(c) Except as otherwise stated in the power of attorney delegating powers under this section, a delegation of powers under this section may be revoked by a written instrument of revocation that:

(1) identifies the power of attorney revoked; and

(2) is signed by the:

(A) parent of a minor; or

(B) guardian of a protected person;

who executed the power of attorney.

SECTION 8. IC 30-4-2.1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. (a) If a trust is terminated or partially terminated and the available trust property is not sufficient to fully satisfy the interests of all beneficiaries, the interests must be abated in the following order:**

(1) The interests that would be characterized as residuary devises if the trust were a will.

(2) The interests that would be characterized as general devises if the trust were a will.

(3) The interests that would be characterized as specific devises if the trust were a will.

The amount abated for each beneficiary within each classification described in subdivisions (1) through (3) must be proportional to the amount of property that each beneficiary would have received if full distribution of the trust property had been made in

accordance with the terms of the trust instrument.

(b) If:

(1) a trust instrument expresses an order of abatement that differs from the order set forth in subsection (a); or

(2) the order of abatement stated in subsection (a) would impair an express or implied purpose of the trust;

the interests of the beneficiaries must be abated in the manner determined appropriate to give effect to the settlor's intent.

(c) If, under the terms of a trust that was revocable at the time of the settlor's death, the subject of a preferred devise is sold or used to pay debts, expenses, taxes, or other obligations incident to the settlement of the settlor's affairs, abatement must be achieved by adjustment in, or contribution from, other interests in the remaining trust property.

(d) Where applicable, the abatement of beneficiary interests in a trust is subject to IC 32-17-13-4.

SECTION 9. IC 30-5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. To be valid, a power of attorney must meet the following conditions:

(1) Be in writing.

(2) Name an attorney in fact.

(3) Give the attorney in fact the power to act on behalf of the principal.

(4) Be signed by the principal **or at the principal's direction** in the presence of a notary public.

(5) In the case of a power of attorney signed at the direction of the principal, the notary must state that the individual who signed the power of attorney on behalf of the principal did so at the principal's direction.

SECTION 10. IC 30-5-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Except as provided in subsection (b), a power of attorney is effective on the date the power of attorney is signed ~~by the principal.~~ **in accordance with section 1(4) of this chapter.**

(b) A power of attorney may:

(1) specify the date on which the power will become effective; or

(2) become effective upon the occurrence of an event.

SECTION 11. IC 32-17-13-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Unless otherwise provided by the trust instrument, interest of beneficiaries in all trusts incurring liabilities under this chapter shall abate as necessary to satisfy the liability as if all of the trust instruments were a single ~~will and the interests were devises under it.~~ **trust.**

SECTION 12. IC 34-30-2-122.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 122.9. IC 29-1-13-1.5 (Concerning a financial institution granting access to a safe deposit box upon the death of an individual).**

SECTION 13. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-1-9, IC 6-1.1-12-17.9, and IC 6-1.1-20.9-2, all as amended by this act, apply to property taxes first due and payable after December 31, 2008.**

SECTION 14. **An emergency is declared for this act.**

P.L.102-2008
[S.143. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.3. "Advisory council", for purposes of IC 16-41-39.4, refers to the lead-safe housing advisory council established by IC 16-41-39.4-6.**

SECTION 2. IC 16-18-2-56.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 56.2. "Clearance examination", for purposes of IC 16-41-39.4, means an activity conducted by a clearance examiner who is licensed under**

IC 13-17-14 to establish proper completion of interim controls (as defined in 24 CFR 35.110).

SECTION 3. IC 16-18-2-69.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 69.2. "Consumer product", for purposes of IC 16-41-39.4, means an item or a component of an item that is produced or distributed for:**

(1) sale to a consumer for use; or

(2) the personal use, consumption, or enjoyment of a consumer.

SECTION 4. IC 16-18-2-116.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 116.2. "Environmental investigation" means an identification and evaluation of lead hazards from nonstructural sources in a child's environment. The term includes the following:**

(1) Presentation of results of the identification and evaluation, including recommendations for reducing or eliminating exposure.

(2) Education of the child's family concerning:

(A) lead hazards found; and

(B) temporary and permanent measures to protect the child from further exposure.

SECTION 5. IC 16-18-2-143, AS AMENDED BY P.L.234-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-41-39.4, refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1.

~~(c)~~ **(d)** "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

~~(d)~~ **(e)** "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

~~(e)~~ **(f)** "Fund", for purposes of ~~IC 16-41-42,~~ **IC 16-41-42.2,** has the meaning set forth in ~~IC 16-41-42-2.~~ **IC 16-41-42.2-2.**

SECTION 6. IC 16-18-2-198.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 198.7. "Lead-based paint activities", for purposes of IC 16-41-39.4, has the meaning set forth in IC 13-11-2-118.5.**

SECTION 7. IC 16-18-2-214.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 214.7. "Low income", for purposes of IC 16-41-39.4, means having not more than eighty percent (80%) of the median income level of households in a particular county as determined annually by the federal Department of Housing and Urban Development.**

SECTION 8. IC 16-18-2-292.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 292.7. "Primary prevention", for purposes of IC 16-41-39.4, means the removal or remediation, including the use of interim controls, of lead hazards before lead poisoning of an individual occurs.**

SECTION 9. IC 16-18-2-315.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 315.8. "Remediation" means actions that constitute:**

(1) abatement (as defined in IC 13-11-2-0.5); or

(2) interim control (as defined in 24 CFR 35.110);

of a lead hazard.

SECTION 10. IC 16-18-2-349.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 349.5. "Tenant" has the meaning set forth in IC 32-31-3-10.**

SECTION 11. IC 16-41-39.4-3, AS AMENDED BY P.L.135-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person that examines the blood of an individual described in section 2 of this chapter for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the individual whose blood is examined:

(A) the name;

(B) the date of birth;
(C) the gender;
(D) the race; and
(E) any other information that is required to be included to qualify to receive federal funding.

(2) With respect to the examination:
(A) the date;
(B) the type of blood test performed;
(C) the person's normal limits for the test;
(D) the results of the test; and
(E) the person's interpretation of the results of the test.

(3) The names, addresses, and telephone numbers of:
(A) the person; and
(B) the attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the state department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after notification by the state department, the state department may, in accordance with IC 4-21.5, assess a civil penalty against the person in an amount equal to one thousand five hundred dollars ($1,500) for each incomplete report that is submitted after receipt of the notification. Money received by the state department under this subsection shall be deposited in the fund.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

(1) is unable to collect all of the information required for a complete report; or

(2) provides incorrect information on a completed report.

SECTION 12. IC 16-41-39.4-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) The childhood lead poisoning prevention fund is established for the purpose of funding**

childhood lead poisoning outreach and prevention activities. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) civil penalties assessed under section 3 of this chapter;

(2) gifts; and

(3) appropriations from the general assembly.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 13. IC 16-41-39.4-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The lead-safe housing advisory council is established to advise the state department concerning housing related lead poisoning prevention activities.**

(b) The advisory council consists of the following members:

(1) The state health commissioner, or the state health commissioner's designee, who shall serve as the chairperson of the advisory council.

(2) The director of the Indiana housing and community development authority or the director's designee.

(3) The local health officer of each of three (3) local health departments, appointed by the state health commissioner to represent a diverse geographic and population mix, or the local health officer's designee.

(4) The following individuals, appointed by the governor:

(A) A representative of realtors in Indiana.

(B) A representative of home builders or remodelers in Indiana.

(C) A pediatrician or other physician with knowledge of lead poisoning.

(D) A representative of the private lead-based paint abatement industry who is licensed under IC 13-17-14 to perform or supervise lead-based paint activities.

(E) A representative of a community based organization

located in a community with a significant concentration of high risk lead-contaminated properties, as determined by a high prevalence in the community of:

(i) low income families having children with lead poisoning; and

(ii) housing units that were built before 1978.

(F) A parent of a child with lead poisoning.

(G) A representative from a child or health advocacy organization.

(H) A residential tenant.

(I) A representative of the paint and coatings industry.

(J) A representative of public housing administrators.

(K) A representative of residential rental property owners.

(L) A representative of licensed lead-based paint activities training providers.

(M) A representative of community action program agencies.

(N) A representative of the banking industry.

(O) An individual who is licensed as a lead-based paint activities inspector under IC 13-17-14.

(P) A child care provider.

(c) The advisory council shall meet at least quarterly. The first meeting of the advisory council must occur not later than July 1, 2008.

(d) The advisory council shall submit to the governor, the attorney general, and, in an electronic format under IC 5-14-6, the legislative council the following:

(1) A preliminary report before November 1, 2008.

(2) A final report before November 1, 2009.

(e) The reports required by subsection (d) shall contain the recommendations of the advisory council concerning the following:

(1) Development of a primary prevention program to address housing related lead poisoning.

(2) Development of a sufficient number of licensed lead inspectors, risk assessors, clearance examiners, individuals who are trained in lead-safe work practices, abatement workers, and contractors.

(3) Ensuring lead-safe work practices in remodeling, rehabilitation, and weatherization work.

(4) Funding mechanisms to assist child care and residential property owners with the cost of lead abatement, remediation, and mitigation, including interim controls.

(5) A procedure for distribution of funds from the Indiana lead trust fund established by IC 13-17-14-6 to pay the cost of implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

(6) A program to ensure that the resale of recycled building products does not pose a significant risk of lead poisoning to children.

(7) Necessary statutory or administrative rule changes to improve the effectiveness of state and local lead abatement, remediation, including interim controls, and other lead poisoning prevention and control activities.

(8) The content of a basic lead training course for child care workers concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) includes information concerning how the course should be made available to child care workers.

(9) For the preliminary report, recommendations for legislation to be introduced in the 2009 session of the general assembly.

(f) The state department shall staff and provide administrative and logistical support to the advisory council, including conference telephone capability for meetings of the advisory council.

(g) Each member of the advisory council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) A majority of the members appointed to the advisory council is required for the advisory council to take action on any measure, including final reports.

(i) This section expires July 1, 2011.

SECTION 14. IC 16-41-39.4-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) A retail establishment that sells paint or paint products shall do all of the following:**

(1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.

(2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved by the state department.

(3) Ensure that at least one (1) employee who provides advice to customers concerning paint and paint products:

(A) attends a training program concerning lead hazards; and

(B) provides training to other employees who provide advice to customers concerning paint and paint products.

(b) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

(1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and

(2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food product, or food packaging that:

(1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; and

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(d) If the state department, based on:

(1) test results performed by a certified laboratory at the state department's request;

(2) information received from a federal agency; or

(3) other reliable information;

has reason to believe that a person has violated this section, the

state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

SECTION 15. IC 16-41-39.4-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) The state department shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to establish a lead-safe work practices training program for contractors, renovators, and remodelers who:**

(1) perform work on housing units that were built before 1978; and

(2) disturb lead-based paint in the housing units.

(b) The rules adopted under subsection (a) must:

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning requirements for:**

(1) the division of family resources;

(2) child care providers; and

(3) children who are served by child care providers;

related to childhood lead poisoning prevention, including testing of child care facilities that were built before 1978 and children in child care.

(b) This SECTION expires December 31, 2008.

SECTION 17. **An emergency is declared for this act.**

P.L.103-2008

[S.226. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-2-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.2. (a) As used in this section, "landlord" refers to a landlord or a person acting on a landlord's behalf.**

(b) A landlord that distributes water or sewage disposal service from a public utility or a municipally owned utility to one (1) or more dwelling units is not a public utility solely by reason of engaging in this activity if the landlord complies with all of the following:

(1) The landlord bills tenants, separately from rent, for:

(A) the water or sewage disposal service distributed; and

(B) any costs permitted by subsection (c).

(2) The total charge for the services described in subdivision

(b)(1)(A) is not more than what the landlord paid the utility for the same services, less the landlord's own use.

(3) The landlord makes a disclosure to the tenant that satisfies subsection (d). A disclosure required by this subdivision must be in:

(A) the lease;

(B) the tenant's first bill; or

(C) a writing separate from the lease signed by the tenant before entering into the lease.

(c) A landlord may charge only the following costs under subsection (b)(1)(B):

(1) A reasonable initial set-up fee.

(2) A reasonable administrative fee that may not exceed four dollars ($4) per month.

(3) A reasonable fee for the return for insufficient funds of an instrument in payment of charges.

(d) A disclosure required by subsection (b)(3) must:

(1) be printed using a font that is not smaller than the largest font used in the lease; and

(2) include the following:

(A) A description of the water or sewage disposal services to be provided.

(B) An itemized statement of the fees that will be charged as permitted under subsection (c).

(C) The following statement: "If you believe you are being charged in violation of this disclosure or if you believe you are being billed in excess of the utility services provided to you as described in this disclosure, you have a right under Indiana law to file a complaint with the Indiana Utility Regulatory Commission. You may contact the Commission at (insert phone number for the tenant to contact the Commission).".

(e) If a complaint is filed under section 34.5 or 54 of this chapter alleging that a landlord may be acting as a public utility in violation of this section, the commission shall:

(1) consider the issue; and

(2) if the commission considers necessary, enter an order requiring that billing be adjusted to comply with this section.

SECTION 2. IC 8-1.5-2-4, AS AMENDED BY P.L.113-2006,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Whenever the municipal legislative body determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall by ordinance or resolution, by a two-thirds (2/3) vote, provide for **the following:**

(1) The appointment, **as follows,** of **three (3) residents of Indiana to serve as appraisers:**

(A) One (1) disinterested ~~freeholder residing in the municipality; and~~ **person who is an engineer licensed under IC 25-31-1.**

(B) ~~Two (2)~~ **One (1)** disinterested ~~appraisers~~ **appraiser** licensed under IC 25-34.1.

~~who are residents of Indiana;~~

(C) One disinterested person who is either:

(i) an engineer licensed under IC 25-31-1; or

(ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property. ~~and~~

(3) The time that the appraisal is due.

~~One (1) of the appraisers appointed under subdivision (1)(B) must reside not more than fifty (50) miles from the property.~~

SECTION 3. IC 8-1.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;

(2) be a disinterested person; and

(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:

(1) be sworn to make a just and true valuation of the property; and

(2) return their appraisal, in writing, to the municipal legislative body within the time fixed by the **ordinance or** resolution appointing them.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) ~~Not later than fifteen (15) days~~ **If,** after the return of the

appraisal by the appraisers to the legislative body, the **legislative body decides to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not later than forty-five (45) days after the return of the appraisal, hold a public hearing to do the following:**

(1) Review and explain the appraisal.

(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

(3) Adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property. The legislative body is not required to adopt an ordinance under this subdivision if, after the hearing, the legislative body determines it is not in the interest of the municipality to proceed with the sale or disposition.

Notice of ~~a~~ **the** hearing ~~on an ordinance providing for sale or disposition of the property and the total valuation of the property as fixed by the appraisement~~ shall be published in the manner prescribed by IC 5-3-1.

(e) The hearing on the ordinance providing for sale or disposition may not be held for thirty (30) days after notice is given as required by subsection (d).

(f) If:

(1) the legislative body adopts an ordinance under subsection (d)(3); and

(2) within ~~this~~ **the** thirty (30) day period **described in subsection (e),** at least the number of the registered voters of the municipality required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign and present a petition to the legislative body opposing the sale **or disposition;**

the legislative body shall submit the question as to whether the sale **or disposition** shall be made to the voters of the municipality at a special or general election. In submitting the public question to the voters, the legislative body shall certify the question to the county election board of the county containing the greatest percentage of population of the municipality under IC 3-10-9-3. The county election board shall adopt a resolution setting forth the text of the public question and shall submit the question as to whether the sale **or disposition** shall be made

to the voters of the municipality at a special or general election on a date specified by the municipal legislative body. **Pending the results of an election under this subsection, the municipality may not take further action to sell or dispose of the property as provided in the ordinance.**

(g) If a majority of the voters voting on the question vote for the sale **or disposition,** the legislative body shall proceed to sell the property as provided in the ordinance.

(h) If a majority of the voters voting on the question vote against the sale **or disposition,** the sale may not be made.

(i) If:

(1) the legislative body adopts an ordinance under subsection (d)(3); and

(2) after the expiration of thirty (30) days as provided in subsection (e), a petition is not filed;

the municipal legislative body ~~shall~~ **may** proceed to sell the property as provided in the ordinance.

SECTION 4. IC 8-1.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) ~~After the hearing required by section 5 of this chapter and before any election that may be required by that section,~~ The ~~municipal legislative body may adopt an~~ ordinance ~~providing~~ **adopted by the municipal legislative body under section 5(d) of this chapter must provide** for:

(1) the sale or disposition of the municipally owned utility property;

(2) the manner of the sale **or disposition;**

(3) the price, terms, and conditions of the sale **or disposition,** which must be consistent with any contractual obligations previously incurred under IC 8-1-2.2; and

(4) the officer or officers who are to execute the proper documents conveying title on behalf of the municipality.

(b) The property may not be sold for less than its full appraised value, as set forth in the appraisal, less the amount of any bonds, liens, or other indebtedness due upon the property, and only in accordance with contractual obligations incurred under IC 8-1-2.2. The indebtedness shall either:

(1) be paid in accordance with the terms and conditions of the instruments governing the indebtedness before the sale; or

(2) be assumed and paid by the purchaser as part of the purchase price of the property.

(c) This subsection applies if a municipal legislative body adopts an ordinance for the sale or disposition of municipally owned utility real property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

(d) The proceeds of any sale under this chapter shall be paid into the treasury of the municipality making the sale and become part of the general fund.

SECTION 5. IC 8-1.5-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A municipality may not issue bonds, notes, or other obligations under this chapter without the approval of the commission **if the bond, notes, or other obligations are payable more than twelve (12) months after their execution,** except as authorized by IC 8-1-2.2-11.

(b) If the evidence presented to the commission establishes that the rates and charges proposed by the municipally owned utility will provide sufficient funds for the operation, maintenance, and depreciation of the utility, and to pay the principal and interest of the proposed bond issue, together with a surplus or margin of at least ten percent (10%) in excess, the commission shall so certify in its order approving the issuance of bonds.

SECTION 6. IC 8-1.5-2-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.5. If a municipality desires to purchase and install equipment for its utility which requires more than three (3) months lead time for the supplier to make such equipment and installation available, the legislative body may, by ordinance, approve a contract therefor even though it does not have sufficient funds appropriated or on hand to pay for such purchase if the utility:

(1) has annual net operating revenues for the immediately preceding calendar year sufficient to permit the municipality:

(A) to pay the principal of and interest on an issue of its utility revenue bonds in the principal amount necessary to fund such purchase (including engineering costs, legal costs, and costs of bond issuance associated therewith); and

(B) a margin of safety which it deems necessary to market such bonds on acceptable terms;

(2) **if required by section 19 of this chapter,** has received approval from the commission to issue bonds, notes, or other obligations sufficient to fund such purchase; or

(3) has received approval from the commission to raise its rates and charges in an amount sufficient to permit the issuance of said bonds.

SECTION 7. **An emergency is declared for this act.**

P.L.104-2008

[S.227. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-23-25-9, AS AMENDED BY P.L.126-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The department of workforce development established by IC 22-4.1-2 shall provide staff and administrative support to

~~(1)~~ the commission. ~~and~~

~~(2) the sexual assault standards and certification board.~~

SECTION 2. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **(a)** The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse of an applicant.

(3) The home telephone number of an applicant, or the spouse **or children** of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's **or applicant's spouse's** driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of the spouse of an applicant.

(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

(10) Any information concerning a victim of domestic violence, sexual assault, or stalking.

(11) The electronic mail address of an applicant or spouse or family member of the applicant.

(b) Except as provided in subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

(1) The individual's name.

(2) The individual's place of employment.

(3) The individual's job title.

(4) The individual's gaming experience.

(5) The reason for denial or revocation of a license or for disciplinary action against the individual.

(6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 3. IC 4-35-10-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 3. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:**

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse of an applicant.

(3) The home telephone number of an applicant or the spouse or children of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's or applicant's spouse's driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of the spouse of an applicant.

(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

(10) Any information concerning a victim of domestic violence, sexual assault, or stalking.

(11) The electronic mail address of an applicant or spouse or family member of the applicant.

(b) Except as provided in subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

(1) The individual's name.

(2) The individual's place of employment.

(3) The individual's job title.

(4) The individual's gaming experience.

(5) The reason for denial or revocation of a license or for disciplinary action against the individual.

(6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 4. IC 5-2-6-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23. (a) As used in this section, "board" refers to the sexual assault victim advocate standards and certification board established by subsection (c).**

(b) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, to victims of sexual assault.

(c) The sexual assault victim advocate standards and certification board is established. The board consists of the following twelve (12) members appointed by the governor:

(1) A member recommended by the prosecuting attorneys council of Indiana.

(2) A member from law enforcement.

(3) A member representing a rape crisis center.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A member representing mental health professionals.

(6) A member representing hospital administration.

(7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection and recommended by the Indiana chapter of the International Association of Forensic Nurses.

(8) A member who is an employee of the Indiana criminal justice institute.

(9) A member who is a survivor of sexual violence.

(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.

(11) A member who is an employee of the office of family and social services.

(12) A member who is an employee of the state department of health, office of women's health.

(d) Members of the board serve a four (4) year term. Not more

than seven (7) members appointed under this subsection may be of the same political party.

(e) The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

(f) The board shall:

(1) develop standards for certification as a sexual assault victim advocate;

(2) set fees that cover the costs for the certification process;

(3) adopt rules under IC 4-22-2 to implement this section;

(4) administer the sexual assault victims assistance account established by subsection (h); and

(5) certify sexual assault victim advocates to provide advocacy services.

(g) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the board is paid at the discretion of the director of the office of management and budget.

(h) The sexual assault victims assistance account is established within the state general fund. The board shall administer the account to provide financial assistance to rape crisis centers. Money in the account must be distributed to a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq. The account consists of:

(1) amounts transferred to the account from sexual assault victims assistance fees collected under IC 33-37-5-23;

(2) appropriations to the account from other sources;

(3) fees collected for certification by the board;

(4) grants, gifts, and donations intended for deposit in the account; and

(5) interest accruing from the money in the account.

(i) The expenses of administering the account shall be paid from money in the account. The board shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration. The board may not use more than ten percent (10%) of the money collected from

certification fees to administer the certification program.

(j) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(k) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(l) The governor shall appoint a member of the commission each year to serve a one (1) year term as chairperson of the board.

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.174-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by ~~IC 4-23-25-11(i)~~ **IC 5-2-6-23(h)** one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance

fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate

court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 6. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2007, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The

defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual, **including if the defendant has not been released from lawful detention.**

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or

organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day

and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 7. IC 35-37-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** As used in this chapter, "confidential communication" means any information:

(1) exchanged between a victim and a victim ~~counselor~~ **advocate** in ~~private or in the presence of a third party who is necessary to facilitate communication or further the counseling process; and~~ **the course of the relationship between the victim and the victim advocate;**

(2) **exchanged or** disclosed in ~~the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act;~~ **a support group in which a victim is or was a participant; or**

(3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

(1) advice;

(2) notes;

(3) reports;

(4) statistical data;

(5) memoranda;

(6) working papers;

(7) records; and

(8) personally identifying information;

produced in the course of advocating for a victim.

SECTION 8. IC 35-37-6-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) As used in this chapter, "confidential information" includes:**

(1) personally identifying information;

(2) descriptions of physical appearance;

(3) the case file; and

(4) the case history;

of a person who seeks, receives, or has received services from a victim advocate.

(b) The term does not include:

(1) information disclosed to a victim service provider or a victim advocate if the victim:

(A) files criminal charges;

(B) institutes a civil lawsuit; or

(C) reports allegations of criminal conduct to a law enforcement agency;

against the victim service provider or victim advocate; and

(2) alleged child abuse or neglect that is required to be reported under IC 31-33.

SECTION 9. IC 35-37-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:**

(1) name;

(2) mailing and physical address;

(3) electronic mail address;

(4) Internet protocol address;

(5) telephone numbers, including facsimile numbers;

(6) Social Security number;

(7) date of birth;

(8) racial or ethnic background; and

(9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

SECTION 10. IC 35-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "victim" means: ~~an individual~~

(1) **an individual** against whom ~~a covered act~~ **an act of:**

(A) domestic or family violence;

(B) dating violence;

(C) sexual assault (as defined in IC 5-26.5-1-8);

(D) human and sexual trafficking (IC 35-42-3.5); or

(E) stalking (IC 35-45-10-5);

is committed; or

(2) **an individual:**

(A) ~~other than an individual who is~~ **who is not** accused of committing ~~a covered act,~~ **an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and**

(B) who:

(i) is ~~the parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew of the individual described in subdivision (1).~~ **a member of the family of an individual described in subdivision (1); but**

(ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

SECTION 11. IC 35-37-6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for a victim services provider.**

(b) The term does not include:

(1) a law enforcement officer;

(2) an employee or agent of a law enforcement officer;

(3) a prosecuting attorney; or

(4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of a:

(1) victim services provider;

(2) domestic violence program;

(3) sexual assault program;

(4) rape crisis center;

(5) battered women's shelter;

(6) transitional housing program for victims of domestic violence; or

(7) program that has as one (1) of its primary purposes to provide services to an individual:

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

SECTION 12. IC 35-37-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "victim ~~counseling center"~~ **service provider"** means **a person:**

(1) that is:

~~(1)~~ **(A)** a public agency;

~~(2)~~ **(B)** a unit of a public agency; or

~~(3)~~ **(C)** an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) that is not affiliated with a law enforcement agency; ~~and~~

(3) that has, as one (1) of its primary purposes, ~~the treatment of~~ **to provide services** ~~victims~~ for emotional and psychological conditions that occur ~~as a result of covered acts.~~ **to an individual:**

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

SECTION 13. IC 35-37-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. This chapter does not relieve a victim ~~counselor~~ **advocate** of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

SECTION 14. IC 35-37-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The following persons **or entities** may not be compelled to give testimony, ~~or~~ to produce records, **or to disclose any information** concerning confidential communications **and confidential information to anyone or** in any judicial, legislative, or administrative proceeding:

(1) A victim.

(2) A victim ~~counselor,~~ **advocate or victim service provider** unless the victim **specifically** consents to the disclosure **in a written authorization that contains the date the consent expires.**

~~(3) An unemancipated child less than eighteen (18) years of age or an incapacitated victim, unless a custodial parent, custodian, guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure.~~

(b) A victim ~~counselor~~ **advocate, victim service provider,** or ~~a~~ victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name,

address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.

(d) This section does not prohibit a victim from providing testimony concerning an offense.

(e) The consent to disclose information on behalf of:

(1) a child who is less than eighteen (18) years of age and is unemancipated; or

(2) an incapacitated victim;

may be made by a custodial parent, custodian, guardian, or guardian ad litem in a written authorization that contains the date the consent expires.

(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:

(1) committed; or

(2) is alleged to have committed;

an offense against the victim.

SECTION 15. IC 35-37-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A victim ~~counselor~~ **advocate** may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim ~~counselor,~~ **advocate** or victim ~~counseling center~~ **service provider** in which the victim ~~counselor~~ **advocate** was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the ~~counseling~~ relationship;

the victim ~~counselor~~ **advocate** may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

SECTION 16. IC 35-37-6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) Except as provided in subsection (d):**

(1) a victim; or

(2) in the case of a deceased victim, the victim's personal representative;

may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

(1) abused or killed the victim;

(2) is alleged to have abused or killed the victim; or

(3) assisted another person in abusing or killing the victim.

SECTION 17. IC 35-37-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a) This section does not:**

(1) relieve a prosecuting attorney of the constitutional and ethical obligation to disclose exculpatory evidence; and

(2) prohibit impeachment of a victim as permitted by the Indiana Rules of Evidence.

(b) A victim does not waive any privileges or confidentiality protections under this chapter if the victim:

(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or

(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.

SECTION 18. IC 35-37-6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential**

communication.

SECTION 19. IC 35-37-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.**

SECTION 20. IC 35-37-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.**

SECTION 21. IC 35-38-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. A sentencing court may require that, as a condition of a person's executed sentence, the person shall refrain from any direct or indirect contact with an individual.**

SECTION 22. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15.1. A person who knowingly or intentionally violates:

(1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(3) a workplace violence restraining order issued under IC 34-26-6;

(4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) a no contact order issued as a condition of pretrial release,

including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); ~~or~~

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(12) an order issued under IC 35-33-8-3.2; **or**

(13) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

SECTION 23. IC 4-23-25-11 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 24. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 35-37-6-2; IC 35-37-6-4; IC 35-37-6-6.

SECTION 25. [EFFECTIVE UPON PASSAGE] **(a) All appropriations made to the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this**

act, are transferred to the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.

(b) All balances in the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this act, are transferred to the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.

(c) Any obligations or encumbrances incurred by the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this act, are obligations or encumbrances of the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.

(d) This SECTION expires July 1, 2009.

SECTION 26. [EFFECTIVE UPON PASSAGE] **(a) Members appointed to the sexual assault standards and certification board under IC 4-23-25-11, before its repeal by this act, are members of the sexual assault victim advocate standards and certification board established by IC 5-2-6-23, as added by this act.**

(b) Members appointed under subsection (a) shall serve for the terms for which they were originally appointed.

(c) The members appointed to the sexual assault victim advocate standards and certification board under IC 5-2-6-23(c)(11) and IC 5-2-6-23(c)(12), as added by this act, are initially appointed for a term of four (4) years.

(d) This SECTION expires December 31, 2012.

SECTION 27. **An emergency is declared for this act.**

P.L.105-2008
[S.302. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning health and professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-42-21-3, AS AMENDED BY P.L.157-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "practitioner" means any of the following:

(1) A licensed physician.

(2) A dentist licensed to practice dentistry in Indiana.

(3) A podiatrist licensed to practice podiatry in Indiana.

(4) A veterinarian licensed to practice veterinary medicine in Indiana.

(5) An optometrist who is:

(A) licensed to practice optometry in Indiana; and

(B) certified under IC 25-24-3.

(6) An advanced practice nurse licensed and granted the authority to prescribe legend drugs under IC 25-23.

SECTION 2. IC 25-1-8-6, AS AMENDED BY P.L.185-2007, SECTION 6, AND AS AMENDED BY P.L.197-2007, SECTION 20, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

(6) State boxing commission (IC 25-9-1).

(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee ~~on~~ **of** hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).
(24) Indiana board of pharmacy (IC 25-26).
(25) Indiana physical therapy committee (IC 25-27).
(26) Physician assistant committee (IC 25-27.5).
(27) Indiana plumbing commission (IC 25-28.5-1-3).
(28) Board of podiatric medicine (IC 25-29-2-1).
(29) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(30) State psychology board (IC 25-33).
(31) Indiana real estate commission (IC 25-34.1-2).
(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(33) Respiratory care committee (IC 25-34.5).
(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(35) Speech-language pathology and audiology board (IC 25-35.6-2).
(36) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~

(IC 25-38.1).

(37) State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and except as provided in section 8 of this chapter,* the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~*for the current renewal period.*~~ *or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and except as provided in section 8 of this chapter,* unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education

as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~*for the current renewal period.*~~ *or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 3. IC 25-1-14-2, AS ADDED BY P.L.179-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

(1) **except as provided in subsections (b) and (c),** at which at least a quorum is physically present at the place where the meeting is conducted; and

(2) by using a means of communication that permits:

(A) all other members participating in the meeting; and

(B) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the state boxing commission may participate in meetings of the commission to consider the final approval of a permit for a particular boxing or sparring match or exhibition

under IC 25-9-1-6(b) by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c):

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

SECTION 4. IC 25-2.1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The board consists of six (6) members appointed by the governor.

(b) ~~Four (4)~~ **Five (5)** members must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a certified public accountant under IC 25-2.1-3 or IC 25-2.1-4.

~~(c) One (1) member must meet the following conditions:~~

~~(1) Be a resident of Indiana.~~

~~(2) Be certified as a public accountant or an accounting practitioner under IC 25-2.1-6.~~

~~(d)~~ **(c)** One (1) member must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a consumer who is not certified under this article but has professional or practical experience in the use of accounting services and financial statements that qualify the individual to make judgments about the qualifications and conduct of individuals and firms under this article.

SECTION 5. IC 25-2.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** An initial and renewed certificate expires ~~at the earlier of the following:~~

~~(1) Three (3) years after issuance.~~

~~(2) At a time established by the board.~~

on the date established by the licensing agency under IC 25-1-6-4.

(b) An individual may renew a certificate by paying a renewal

fee and complying with the continuing education requirements established under section 5 of this chapter on or before the expiration date of the certificate.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a certificate, the certificate becomes invalid without further action by the board.

(d) If an individual holds a certificate that has been invalid for not more than three (3) years, the board shall reinstate the certificate if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a certificate expired, the individual who holds the certificate may seek reinstatement of the certificate by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 6. IC 25-2.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board shall issue a CPA certificate to a holder of a certificate issued by another state if the holder meets the requirements under subsection (b) or (c).

(b) With regard to applicants who do not qualify for reciprocity under the substantial equivalency standard set forth in section 10(a)(2) of this chapter, the board shall issue a CPA certificate to a holder of a certificate issued by another state upon a showing that:

(1) the applicant has:

(A) passed the examination required for issuance of the applicant's certificate; and

(B) the applicant:

(i) had four (4) years of experience in Indiana or another state of the type described in IC 25-2.1-3-10 or meets equivalent requirements prescribed by the board after passing the examination on which the applicant's certificate was based and during the ten (10) years immediately preceding the applicant's application; and

(ii) if the applicant's certificate was issued by the other state more than four (4) years before the application for issuance of an initial certificate under this chapter, fulfilled the requirements for continuing professional education that would have been applicable under section 5 of this chapter.

(c) The board shall issue a CPA certificate to a CPA certified by

another state ~~that seeks to establish the individual's principal place of business in Indiana if the:~~

~~(1) individual requests the issuance of a certificate from the board before establishing the individual's principal place of business in Indiana; and~~

~~(2)~~ board or its designee **if the board** determines that the individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of Indiana.

SECTION 7. IC 25-2.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country ~~under qualifications substantially equivalent to those specified in this chapter for a license~~ to practice acupuncture;

(2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

(A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and

(C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant

is a:

(1) chiropractor licensed under IC 25-10;

(2) dentist licensed under IC 25-14; or

(3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

(1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and

(2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).

SECTION 8. IC 25-2.5-2-5, AS AMENDED BY P.L.1-2006, SECTION 419, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A license issued by the board expires on the date established by the agency under IC 25-1-5-4 in each even-numbered year.

(b) To renew a license, an acupuncturist must:

(1) pay a renewal fee not later than the expiration date of the license; and

(2) submit proof of current active licensure in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid without further action by the board.

(d) If an individual holds a license that has been invalid for not more than three (3) years, the board shall reinstate the license if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a license expired, the individual who holds the license may seek reinstatement of the license by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 9. IC 25-4-1-6, AS AMENDED BY P.L.194-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A person desiring to engage ~~or continue~~ in the practice of architecture: ~~shall:~~

(1) **shall** apply to the board for a certificate of registration **in compliance with this chapter;** ~~and~~

(2) **shall** submit evidence to the board that the person is qualified to engage ~~or continue~~ in the practice of architecture in compliance with the requirements of this chapter, **including evidence that the person:**

(A) graduated with a professional degree from a school or college of architecture accredited by the National Architectural Accrediting Board, Inc., or its successor;

(B) successfully completed the required examination; and

(C) successfully completed the intern development program required under section 7.5 of this chapter; and

(3) must not have been convicted of:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has direct bearing on the applicant's ability to practice competently.

(b) The application for a certificate of registration shall be:

(1) made on a form prescribed and furnished by the board;

(2) verified; and

(3) accompanied by a fee established by the board under IC 25-1-8-2.

SECTION 10. IC 25-4-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. ~~(a)~~ Any person who

is at least eighteen (18) years of age shall be qualified for an examination for a certificate of registration as a registered architect, ~~provided he shall~~

~~(1) have~~ **if the individual has** graduated with a professional degree from a school or college of architecture ~~recognized by the board; and~~ **accredited by the National Architectural Accrediting Board, Inc., or its successor.**

~~(2) either:~~

~~(A) have had at least three (3) years practical experience in the office or offices of reputable, registered, practicing architects; or~~

~~(B) have had a combination of training and practical experience which shall be found by the board to be fully equivalent to clause (A).~~

~~(b) The applicant must not have a conviction for:~~

~~(1) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or~~

~~(2) a felony that has a direct bearing on the applicant's ability to practice competently.~~

SECTION 11. IC 25-4-1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. An applicant for a certificate of registration under this chapter shall furnish evidence that the applicant has successfully completed an intern development program. The intern development program must:**

(1) provide practical, supervised experience in the practice of architecture; and

(2) meet all other requirements established by the board in rules adopted under IC 4-22-2.

SECTION 12. IC 25-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "out-of-state applicant" means an individual who is an architect registered or licensed under the laws of another state, a foreign country, or a province in a foreign country and who is an applicant for a certificate of registration as a registered architect.

(b) This section applies only to an out-of-state applicant.

(c) The board shall grant a certificate of registration to an out-of-state applicant upon the following conditions:

(1) The out-of-state applicant must be at least eighteen (18) years of age. ~~and must not have been convicted of:~~

~~(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or~~

~~(B) a felony that has a direct bearing on the applicant's ability to practice competently.~~

(2) The out-of-state applicant's registration in the other jurisdiction is valid and in good standing.

(3) The out-of-state applicant must have passed the examination required in the other state, or the equivalent offered in the other state, at the time the out-of-state applicant was registered in the other state.

(4) The out-of-state applicant has not been convicted of:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

~~(2)~~ **(5)** If registered in the other jurisdiction after June 30, 1979, the out-of-state applicant must: ~~meet both of the following conditions:~~

~~(A) Have:~~

~~(i)~~ **(A) have** met the requirements specified by ~~section 7(a)(1) and 7(a)(2)~~ **section 6** of this chapter; or

~~(ii)~~ **(B)** ~~earned a bachelor's degree in a design discipline and~~ have at least seven (7) years of experience as a registered architect **and have:**

(i) a bachelor's degree in a design discipline; or

(ii) a combination of training and experience that the board finds to be equivalent to a bachelor's degree in a design discipline.

~~(B) Have passed the examination required in Indiana, or the equivalent, at the time the out-of-state applicant was registered in the other jurisdiction.~~

~~(3)~~ **(6)** If registered in the other jurisdiction before July 1, 1979, the out-of-state applicant must ~~meet the following conditions:~~

~~(A)~~ have met the education and work experience requirements in effect in Indiana when the out-of-state applicant was registered in the other jurisdiction.

~~(B) Have passed the examination required in Indiana, or the equivalent, at the time the out-of-state applicant was registered in the other jurisdiction.~~

~~(4)~~ **(7)** The out-of-state applicant must pay fees established by the board.

(d) If an out-of-state applicant does not meet the examination requirements under subsection ~~(c)(2) or~~ (c)(3), the board may require the out-of-state applicant to pass a written examination ~~and an oral interview necessary~~ to achieve equivalence to the examination required in Indiana at the time the out-of-state applicant was registered in the other jurisdiction.

SECTION 13. IC 25-4-1-14, AS AMENDED BY P.L.157-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Every registered architect who continues in active practice shall, biennially, on or before the date established by the licensing agency under IC 25-1-6-4, renew the registered architect's certificate of registration and pay the required renewal fee. ~~A registered architect whose certificate of registration has expired may have the certificate restored only upon payment of the required fee under IC 25-1-8-6.~~

(b) ~~Subject to subsection (c), any~~ **An** architect registered or licensed in ~~this state~~ **Indiana** who has failed to renew the architect's certificate of registration for a period of not more than five (5) years may have the certificate **of registration** ~~renewed at any time within a period of five (5) years after the registration expired upon:~~

~~(1) making application to the board for renewal of the registration; and~~

~~(2) paying a fee required under IC 25-1-8-6.~~

reinstated by meeting the requirements of IC 25-1-8-6(c).

(c) An architect registered in Indiana who has failed to renew the architect's certificate of registration for more than five (5) years may have the certificate of registration reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

~~(c)~~ **(d)** If any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any

renewal or restoration fees.

(e) If any retired architect desires to return to the practice of architecture in Indiana, ~~within a period of~~ **the retired architect must meet the following requirements:**

(1) If the certificate of registration has been expired for not more than five (5) years, ~~from the date that the architect files a statement under this subsection,~~ the retired architect must:

~~(1)~~ **(A)** file with the board a verified statement indicating the architect's desire to return to the practice of architecture; and

~~(2)~~ **(B)** pay a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter.

(2) If the certificate of registration has been expired for more than five (5) years, the retired architect must:

(A) file with the board a verified statement indicating the architect's desire to return to the practice of architecture;

(B) pay a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter; and

(C) complete remediation and additional training established by the board based on the length of time the certificate of registration has been expired.

SECTION 14. IC 25-4-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) Every registered landscape architect who continues in active practice shall biennially, on or before the date established by the licensing agency under IC 25-1-6-4, renew the registered landscape architect's certificate of registration and pay the required renewal fee.**

(b) A landscape architect registered in Indiana who has failed to renew the landscape architect's certificate of registration for a period of not more than five (5) years may have the certificate of registration reinstated by meeting the requirements of IC 25-1-8-6(c).

(c) A landscape architect registered in Indiana who has failed to renew the landscape architect's certificate of registration for a period of more than five (5) years may have the certificate of registration reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 15. IC 25-5.1-3-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (b), an individual whose license has expired may have the license ~~renewed for not more than~~ **reinstated not later than** three (3) years after the date of expiration upon meeting the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

~~(b) If an individual's license has been expired for more than three (3) years, the individual must file a new application.~~

(b) A license that has been expired for more than three (3) years may be reinstated if the individual holding the license satisfies the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 16. IC 25-6.1-3-2, AS AMENDED BY P.L.157-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

(1) be at least eighteen (18) years of age;

(2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;

(3) not have a conviction for:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

(1) The value of real estate and of various goods commonly sold at an auction.

(2) Bid calling.

(3) Sale preparation, sale advertising, and sale summary.

(4) Mathematics.

(5) The provisions of this article and the commission's rules.

(6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an application for an auctioneer license, each individual shall pay a nonrefundable examination fee established by the commission under IC 25-1-8-2.

(e) When applying for a renewal of an auctioneer license, each

individual shall do the following:

(1) Apply in a manner required by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

(2) Pay the ~~license~~ **renewal** fee ~~prescribed by section 5 of this chapter.~~ **established by the commission under IC 25-1-8-2.**

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and **may** verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination approved by the commission that covers subjects and topics of knowledge required to practice as an auctioneer. The commission shall hold examinations as the commission may prescribe.

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated ~~not more than one (1) year~~ **not later than four (4) years** after the date it expired ~~upon the payment of the renewal fee plus the reinstatement fee established under IC 25-1-8-6 and submission of proof that the applicant has complied with the continuing education requirement.~~ **if the license holder meets the requirements of IC 25-1-8-6(c).**

(j) If ~~the~~ **a** license has expired for a period of more than ~~one (1) year, the person must file an application and take the required examination. However, an applicant for reinstatement of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to reinstate the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.~~ **four (4) years, the holder of the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).**

~~(j)~~ **(k)** The commission may waive the requirement that a

nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

~~(k)~~ **(l)** The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

~~(l)~~ **(m)** The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

~~(m)~~ **(n)** An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

~~(n)~~ **(o)** An individual who does not pass the examination required under ~~subsection (m)~~ **subsection (n)** may not be issued a temporary permit.

SECTION 17. IC 25-6.1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) This section does not apply to an organization that operates a wholesale dealer automobile auction.

(b) Every person, before operating an auction house, must obtain a license from the commission for that auction house.

(c) Except as provided in subsection (d), before applying for a license from the commission to operate an auction house, the following must obtain a license as an auctioneer as provided in section 2 of this chapter:

(1) An individual who seeks to operate an auction house.

(2) One (1) or more individuals designated by an organization that seeks to operate an auction house.

(d) Subsection (c) does not apply to:

(1) a person that holds a valid license for an auction house as of June 30, 1998; or

(2) a person that holds a valid renewal of a license described in subdivision (1).

(e) Every applicant seeking to operate an auction house shall file with the commission a completed application on a form provided by the commission for a license for each auction house to be operated by that person. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and may verify the information contained therein.

(g) If the commission determines that the application has been completed and that the statements made therein by the applicant are true, the commission shall issue a license, in such form as it may prescribe, for such auction house.

(h) Auction house licenses shall expire ~~at midnight, February 28, 2004,~~ **on a date established by the licensing agency under IC 25-1-6-4,** and every fourth year thereafter. ~~A renewal license with a term of four (4) years shall be issued if an application is for a renewal license.~~

(i) If the holder of an auction house license does not renew the license by the date established by the licencing agency, the license

expires and becomes invalid without any action taken by the commission.

(j) The holder of an auction house license that has been expired for not more than four (4) years may have the license reinstated by meeting the requirements under IC 25-1-8-6(c).

(k) The holder of an auction house license that has been expired for more than four (4) years may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 18. IC 25-6.1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Every person other than:

(1) an individual who is a licensed auctioneer; or

(2) an individual who has a licensed auction house;

who is seeking to operate as an auction company must obtain a license from the commission. Notwithstanding the fact that an individual who is a licensed auctioneer or an individual who has a licensed auction house also has an interest in an organization, every organization which seeks to operate an auction company must obtain a license for that auction company.

(b) Every such person shall file with the commission a completed application on the form prescribed by the commission. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(c) Upon the receipt of a completed application for an initial or renewal license, the commission shall examine the application and **may** verify the information contained therein.

(d) Upon a determination by the commission that an application is completed and duly verified, the commission shall issue an auction company license, in such form as it may prescribe, to the applicant.

(e) Auction company licenses shall expire ~~at midnight, February 28, 2004,~~ **on a date established by the licensing agency under IC 25-1-6-4,** and every fourth year thereafter. ~~A renewal license with a term of four (4) years shall be issued if the application is for a renewal license.~~

(f) If the holder of an auction company license does not renew the license by the date established by the licensing agency, the license expires and becomes invalid without any action taken by the commission.

(g) The holder of an auction company license that has been expired for not more than four (4) years may have the license reinstated by meeting the requirements under IC 25-1-8-6(c).

(h) The holder of an auction company license that has been expired for more than four (4) years may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

~~(f)~~ **(i)** Any individual who wishes to operate an auction company, and who is exempt under subsection (a) from obtaining an auction company license, shall, ~~on February 28, 1978, or on~~ **not more than thirty (30) days before** the date on which the individual begins to operate an auction company, ~~whichever is later,~~ notify the ~~secretary of the~~ commission, in a writing signed by the individual, that the individual is operating as an auction company or as more than one (1) auction company. The individual shall specify in such written notification the trade or business name, and the address of the principal place of business, of each auction company which the individual operates. Whenever an individual to whom this subsection applies shall discontinue the operation of an auction company theretofore operated by the individual, or shall change its address or trade or business name, the individual shall promptly notify the secretary of the commission of such discontinuance or change, in a writing signed by the individual.

SECTION 19. IC 25-7-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A person who holds a license under this article may apply for renewal of the license.

(b) A license expires on the date established by the licensing agency under IC 25-1-6-4.

~~(b)~~ **(c)** The board shall renew a license if the license holder pays the fee ~~set forth in IC 25-7-11~~ **established by the board under IC 25-1-8-2** to renew the license before the license expires.

SECTION 20. IC 25-7-6-14, AS AMENDED BY P.L.157-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a) The holder of** an expired ~~barber~~ license may ~~be~~ **have the license** reinstated by ~~payment of the reinstatement and renewal fees required under IC 25-1-8-2 and IC 25-1-8-6~~ **meeting the requirements of IC 25-1-8-6(c)** ~~within~~ **not later than** five (5) years ~~of~~ **after** the expiration date of the license.

(b) ~~After~~ **If more than** five (5) years ~~from~~ **have elapsed since** the

date ~~that~~ a ~~barber~~ license ~~expires~~ **expired** under this ~~section,~~ **chapter,** the ~~person whose license has expired may reinstate the~~ license **may be reinstated** only ~~by~~ **if the holder of the license satisfies the requirements for reinstatement under IC 25-1-8-6(d).**

~~(1) applying for reinstatement of the license;~~

~~(2) paying the fees set forth under IC 25-7-11 and IC 25-1-8-6; and~~

~~(3) taking the same examination required under IC 25-7-10 for an applicant for a license to practice as a registered barber.~~

SECTION 21. IC 25-8-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. **(a)** Except as provided in IC 25-8-9-11, a person who holds a license under this article may apply for its renewal.

(b) A license expires on a date established by the licensing agency under IC 25-1-6-4.

SECTION 22. IC 25-8-4-19, AS AMENDED BY P.L.157-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. The board shall renew a license if the license holder pays the fee ~~set forth in IC 25-8-13~~ **established by the board under IC 25-1-8-2** to renew the license before the license is to expire.

SECTION 23. IC 25-8-4-21, AS AMENDED BY P.L.197-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) Except as provided in IC 25-8-9-11, the board may, upon application, reinstate a license under this ~~chapter~~ **article** that has **been** expired **for not more than three (3) years** if the person holding the license **meets the requirements of IC 25-1-8-6(c).**

~~(1) pays renewal fees established by the board under IC 25-1-8-2;~~

~~(2) pays the license reinstatement fee established under IC 25-1-8-6; and~~

~~(3) complies with all of the requirements established under IC 25-1-8-6.~~

(b) ~~Except as provided in subsection (c) and (f),~~ The board may not reinstate a license issued under this article if the person holding the license does not apply for reinstatement ~~within~~ **not more than** three (3) years after the expiration date of the license, unless the person holding the license **meets the requirements for reinstatement under IC 25-1-8-6(d).**

~~(1) receives a satisfactory grade (as described in section 9 of this~~

~~chapter) on an examination prescribed by the board;~~

~~(2) pays the examination fee set forth in IC 25-1-8-2;~~

~~(3) pays the renewal fees established by the board under IC 25-1-8-2; and~~

~~(4) pays the reinstatement fee established under IC 25-1-8-6.~~

~~(c) If a person does not receive a satisfactory grade on the examination described in subsection (b)(1), the person may repeat the examination subject to the rules governing the examination as adopted by the board.~~

~~(d) If a person does not receive a satisfactory grade on a repeat examination as provided in subsection (c), the board may:~~

~~(1) permit the person to take the examination again;~~

~~(2) require the person to complete remediation and additional training as required by the board before the person is permitted to take the examination again; or~~

~~(3) refuse to permit the person to take the examination again and deny the application for reinstatement of the license.~~

~~(e) The board may not reinstate:~~

~~(1) a cosmetology salon license issued under IC 25-8-7;~~

~~(2) an electrology salon license issued under IC 25-8-7.2;~~

~~(3) an esthetic salon license issued under IC 25-8-12.6; or~~

~~(4) a manicurist salon license issued under IC 25-8-7.1;~~

~~unless the license holder submits an application for reinstatement of the license not later than three (3) years after the date the license expires.~~

~~(f) The board may not reinstate a cosmetology school license issued under IC 25-8-5 unless the license holder submits an application for reinstatement of the license not later than three (3) years after the date the license expires.~~

SECTION 24. IC 25-8-15.4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) A license issued under this chapter expires ~~July 1 following the July 1 following the date the license is issued.~~ **every fourth year on a date established by the licensing agency under IC 25-1-6-4.**

(b) The board shall renew a license issued under this chapter if the person that operates the facility ~~does the following:~~

~~(1) Submits a renewal application to the board on a form prescribed by the board before the license expires.~~

~~(2) Has complied with this chapter and rules adopted under this~~

~~chapter.~~

~~(3) Has allowed the board to inspect the tanning facility.~~

pays the fee for renewal established by the board under IC 25-1-8-2 on or before the date established by the licensing agency.

(c) If the holder of a license does not renew the license on or before the renewal date established by the licensing agency, the license expires and becomes invalid without any action by the board.

SECTION 25. IC 25-8-15.4-9.5, AS ADDED BY P.L.197-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.5. **(a)** The board may, upon application, reinstate a license under this chapter that has **been** expired **for not more than three (3) years** if the person holding the license **meets the requirements for reinstatement established under IC 25-1-8-6(c).**

~~(1) pays the current renewal fee established by the board under IC 25-1-8-2;~~

~~(2) pays the license reinstatement fee established under IC 25-1-8-6; and~~

~~(3) complies with all requirements established under this article for an applicant for an initial license.~~

(b) If more than three (3) years have elapsed since the date a license under this chapter expired, the individual holding the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 26. IC 25-10-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A license issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All licenses issued by the board shall be subject to renewal ~~on July 1 in each even-numbered year.~~ **biennially on a date established by the licensing agency under IC 25-1-5-4.** A renewal license fee established by the board ~~shall~~ **under IC 25-1-8-2 must** be paid ~~before July 1 in each even-numbered year~~ to the board **on or before the date established by the licensing agency,** and if not paid on or before that date, the license expires and becomes invalid without any action taken by the board. ~~A new license may be issued only upon application and the payment of a fee established by the board. All licenses shall be displayed in the office or the place of practice of the licensee.~~

(c) An individual whose license has been expired for not more than three (3) years may have the license reinstated upon meeting the requirements for reinstatement under IC 25-1-8-6(c).

(d) If more than three (3) years have elapsed since the date a license under this chapter expired, the individual holding the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

(e) A license must be displayed in the office or the place of practice of the licensee.

~~(c)~~ **(f)** Each applicant for renewal shall furnish evidence of attendance during each preceding licensing year at not less than one (1) chiropractic educational conference or seminar approved by the board. The conference or seminar may be conducted by an established chiropractic organization or college. This requirement does not apply to the applicant's first licensing year. If an applicant fails to comply with this subsection, the applicant's license expires and becomes invalid at midnight of the renewal date and may be reinstated only upon application and the payment of a fee established by the board and proper showing to the board that there has been a makeup by the applicant of the omitted educational work.

~~(d)~~ **(g)** Any chiropractor licensed to practice chiropractic in this state who intends to retire from practice shall notify the board in writing of the chiropractor's intention to retire and shall surrender the license to the board. Upon receipt of this notice and license, the board shall record the fact that the chiropractor is retired and excuse the person from further payment of license renewal fees and attendance at license renewal seminars. If any chiropractor surrenders the license to practice chiropractic in this state, the chiropractor's reinstatement may be considered by the board on the chiropractor's written request. If any disciplinary proceedings under this chapter are pending against a chiropractor, the chiropractor may not surrender the license without the written approval of the board.

~~(e)~~ **(h)** Any chiropractor licensed to practice chiropractic in this state who intends to become inactive in the practice of chiropractic shall notify the board in writing that the chiropractor will not maintain an office or practice chiropractic in Indiana. The board shall then classify the chiropractor's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the license renewal fee, and the

chiropractor shall not be required to attend license renewal seminars. If a chiropractor holding an inactive license intends to maintain an office or practice chiropractic, the chiropractor shall notify the board of that intent. The board may reinstate that chiropractor's license upon notification and receipt of:

(1) an application;

(2) payment of the current renewal fee;

(3) payment of the current reinstatement fee; and

(4) evidence of attendance of one (1) educational conference approved by the board for each year or portion of a year of inactive license classification.

~~(f)~~ **(i)** The board shall discipline a practitioner of the chiropractic in accordance with IC 25-1-9.

SECTION 27. IC 25-13-1-8, AS AMENDED BY P.L.1-2006, SECTION 429, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A license to practice dental hygiene in Indiana shall be issued to candidates who pass the board's examinations. The license shall be valid for the remainder of the renewal period in effect on the date the license was issued.

(b) Prior to the issuance of the license, the applicant shall pay a fee set by the board under section 5 of this chapter. A license issued by the board expires on a date specified by the Indiana professional licensing agency under IC 25-1-5-4(k) of each even-numbered year.

(c) An applicant for license renewal must satisfy the following conditions:

(1) Pay the renewal fee set by the board under section 5 of this chapter on or before the renewal date specified by the Indiana professional licensing agency in each even-numbered year.

(2) Subject to IC 25-1-4-3, provide the board with a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-13-2.

(3) Be currently certified or successfully complete a course in basic life support through a program approved by the board. The board may waive the basic life support requirement for applicants who show reasonable cause.

~~(c)~~ **(d)** If the holder of a license does not renew the license on or before the renewal date specified by the Indiana professional licensing agency, the license expires and becomes invalid without any action by

the board.

~~(d)~~ **(e)** A license invalidated under ~~subsection (c)~~ **subsection (d)** may be reinstated by the board ~~up to~~ **in** three (3) years **or less** after such invalidation ~~upon meeting~~ **if the holder of the license meets** the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

~~(e)~~ **(f)** If a license remains invalid under ~~subsection (c)~~ **subsection (d)** for more than three (3) years, the holder of the invalid license may obtain a reinstated license ~~if the holder meets the following requirements:~~

~~(1) Meets~~ **by meeting** the requirements **for reinstatement** under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(d).**

~~(2) Passes an examination on state and federal laws that are relevant to the practice of dental hygiene as determined by the board.~~

~~(3) Has been continuously engaged in the practice of dental hygiene from the date the holder's license was invalidated through the date the holder applies for reinstatement.~~

~~(4) Other than failing to renew the license, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (3).~~

~~(5) Complies with any other requirements established by the board under subsection (g).~~

(g) The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

~~(f) If the lapse of time in revalidating the license continues beyond three (3) years, and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license must apply for licensure under section 4 or 17 of this chapter. In addition, the board may require the holder of the expired license to pay all past due renewal fees and a penalty fee set by the board under section 5 of this chapter.~~

~~(g)~~ **(h)** The board may adopt rules under section 5 of this chapter establishing requirements for the reinstatement of a license that has been invalidated for more than three (3) years.

~~(h)~~ **(i)** The license to practice must be displayed at all times in plain view of the patients in the office where the holder is engaged in practice. No person may lawfully practice dental hygiene who does not

possess a license and its current renewal.

~~(i)~~ **(j)** Biennial renewals of licenses are subject to the provisions of IC 25-1-2.

SECTION 28. IC 25-13-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A dental hygienist must complete at least fourteen (14) credit hours in continuing education courses each license period.

(b) Credit hours may be applied under this section only toward the credit hour requirement for the license period during which the credit hours are earned.

(c) During a license period, a dental hygienist may not earn more than five (5) credit hours toward the requirements under this section for continuing education courses that relate specifically to the area of practice management.

(d) Not more than two (2) credit hours for certification programs in basic life support required under ~~IC 25-13-1-8(b)(3)~~ **IC 25-13-1-8(c)(3)** may be applied toward the credit hour requirement during each license period.

SECTION 29. IC 25-14-1-10, AS AMENDED BY P.L.1-2006, SECTION 432, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Unless renewed, a license issued by the board expires on a date specified by the agency under IC 25-1-5-4(k). An applicant for renewal shall pay the renewal fee set by the board under section 13 of this chapter on or before the renewal date specified by the agency.

(b) The license shall be properly displayed at all times in the office of the person named as the holder of the license, and a person may not be considered to be in legal practice if the person does not possess the license and renewal card.

(c) If a holder of a dental license does not ~~secure the renewal card~~ **renew the license** on or before the renewal date specified by the agency, without any action by the board the license together with any related renewal card is invalidated.

(d) Except as provided in section 27.1 of this chapter, a license invalidated under subsection (c) may be reinstated by the board ~~up to~~ **in** three (3) years **or less** after its invalidation ~~upon meeting~~ **if the holder of the license meets** the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(e) Except as provided in section 27.1 of this chapter, if a license remains invalid under subsection (c) for more than three (3) years, the holder of the invalid license may obtain a reinstated license ~~if the holder meets the following requirements:~~

~~(1) Meets the~~ **by satisfying the** requirements **for reinstatement** under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(d).**

~~(2) Passes an examination on state and federal laws that are relevant to the practice of dentistry as determined by the board.~~

~~(3) Has been continuously engaged in the practice of dentistry from the date the holder's license was invalidated through the date the holder applies for reinstatement.~~

~~(4) Other than failing to obtain a renewal card, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (3).~~

~~(5) Complies with any other requirements established by the board under subsection (g).~~

(f) The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

~~(f) If a license remains invalid under subsection (c) for more than three (3) years and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license may be issued a license only by reapplying for a license under section 3 or 16 of this chapter. In addition, the board may require the holder of the invalidated license to pay all past due renewal fees and a penalty fee set by the board under section 13 of this chapter.~~

(g) The board may adopt rules under section 13 of this chapter establishing requirements for the reinstatement of a license that has been invalidated for more than three (3) years. The fee for a duplicate license to practice as a dentist is subject to IC 25-1-8-2.

(h) Biennial renewal of licenses is subject to IC 25-1-2.

(i) Subject to IC 25-1-4-3, an application for renewal of a license under this section must contain a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-14-3.

SECTION 30. IC 25-14.5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** A certificate may be reinstated by the board ~~up to~~ **not later than** three (3) years after its

expiration if the applicant for reinstatement meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(b) A certificate that has been expired for more than three (3) years may be reinstated by the board if the holder of the certificate satisfies the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 31. IC 25-15-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b),** a license issued under this article expires on ~~December 31 in either:~~

~~(1) the next even-numbered year after it is issued; or~~

~~(2) the second even-numbered year after it is issued;~~

~~as set by the board. However,~~ **the date established by the licensing agency under IC 25-1-6-4.**

(b) A funeral director intern license expires two (2) years after it is issued by the board.

SECTION 32. IC 25-15-6-4, AS AMENDED BY P.L.157-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** The board shall reinstate the expired license of: ~~an individual who:~~

(1) ~~was licensed as~~ a funeral director; ~~or embalmer;~~

(2) **an embalmer;**

(3) a funeral director intern; or

(4) a funeral home;

that applies for reinstatement of the ~~funeral director license or embalmer~~ license ~~within two (2) years or four (4) years~~ **not later than three (3) years** ~~of~~ **after** the date ~~that~~ the license expired ~~as set by the board;~~

~~(3) pays a fee established~~ **and meets the requirements for reinstatement** under ~~IC 25-1-8-6; and~~ **IC 25-1-8-6(c).**

~~(4) meets the continuing education requirements set by the board.~~

(b) If the license of:

(1) a funeral director;

(2) an embalmer;

(3) a funeral director intern; or

(4) a funeral home;

has been expired for more than three (3) years, the board shall reinstate the license if the holder of the license applies for reinstatement of the license and meets the requirements for

reinstatement under IC 25-1-8-6(d).

SECTION 33. IC 25-19-1-2, AS AMENDED BY P.L.145-2006, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There is created the Indiana state board of health facility administrators composed of ~~fourteen (14)~~ **thirteen (13)** members as follows:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of family resources or the director's designee.

(3) The state long term care ombudsman or the state long term care ombudsman's designee.

(4) The chief administrative officer of the Indiana University medical center at Indianapolis or the chief administrative officer's designee.

(5) One (1) member of the medical profession holding an unlimited license to practice medicine in Indiana.

~~(6) One (1) hospital administrator who must hold an executive position in an Indiana hospital.~~

~~(7)~~ **(6)** Four (4) administrators of licensed proprietary health facilities.

~~(8)~~ **(7)** Two (2) administrators of licensed nonproprietary health facilities.

~~(9)~~ **(8)** Two (2) members representing the public at large, who:

(A) are residents of Indiana; and

(B) have never been associated with health facility services or administration in any way other than as a resident or a family member of a resident of a health facility.

(b) Those members of the board other than the representatives of state agencies and institutions shall be appointed by the governor after consultation with the associations and societies appropriate to the disciplines and professions representative of the position to be filled. The original and all subsequent physician and hospital administrator appointments shall be for terms of four (4) years. All appointments shall be for four (4) year terms, except that in case of a vacancy prior to term completion, the appointment shall be for the remainder of the unexpired term. Any vacancy, either prior to or at term completion, shall be filled by the governor after consultation with the associations

and societies appropriate to the discipline or professions representative of the vacancy. In all cases, the appointees shall serve until their successors are appointed and qualified.

(c) The governor may remove any member of the board other than the representative of a state agency or institution for misconduct, incapacity, incompetence, or neglect of duty after the member has been served with a written statement of charges and has been given an opportunity to be heard. Designated representatives of the state agencies or institutions may be removed by the original appointing authority for any of those causes.

SECTION 34. IC 25-19-1-6, AS AMENDED BY P.L.1-2006, SECTION 439, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The board shall elect from its membership annually a ~~chairman, vice chairman and secretary~~ **chairperson and vice chairperson** and shall adopt rules to govern its proceedings.

(b) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(c) The Indiana professional licensing agency shall supply necessary personnel to assist the board in the performance of its duties.

~~(b) Eight (8)~~ **(d) Seven (7)** members of the board ~~including three (3) members who are health facility administrators and one (1) member who is an officer of the board,~~ constitute a quorum for consideration of all matters before the board. A majority vote of the quorum is required for action of the board.

SECTION 35. IC 25-19-1-9, AS AMENDED BY P.L.1-2006, SECTION 440, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Every holder of a health facility administrator's license shall renew ~~it biennially, on or before August 31 of even-numbered years by making an application to the board.~~ **the license on the date established by the licensing agency under IC 25-1-5-4.** The renewals shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the

applicant has acted or failed to act in a manner or under circumstances that would constitute grounds for nonrenewal, suspension, or revocation of a license.

(b) A health facility administrator's license expires at midnight on the renewal date specified by the Indiana professional licensing agency. Failure to renew a license on or before the renewal date automatically renders the license invalid.

(c) A person who fails to renew a license before it expires and becomes invalid at midnight of the renewal date shall be reinstated by the board ~~upon meeting~~ **if the person applies for reinstatement not later than three (3) years after the expiration of the license and meets** the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) ~~However,~~ **The board may reinstate** a person who ~~fails to apply~~ **applies** to reinstate a license under this section ~~within~~ **more than** three (3) years after the date the license expires and becomes invalid ~~shall be issued a license by meeting~~ **if the person applies to the board for reinstatement and meets** the requirements **for reinstatement established by the board** under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(d).**

~~(d)~~ **(e)** The board may require an applicant under ~~subsection (c)~~ **subsection (d)** to appear before the board to explain the applicant's failure to renew.

SECTION 36. IC 25-20-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The ~~board~~ **committee** shall issue hearing aid dealer certificates of registration ~~which~~ **that** expire ~~on June 30 of each even-numbered year.~~ **biennially on the date established by the licensing agency under IC 25-1-5-4.** To renew a hearing aid dealer certificate of registration, the holder of the certificate must pay a renewal fee set by the ~~board~~ **committee on or** before ~~June 30 of each even-numbered year.~~ **the date established by the licensing agency.**

(b) If the holder of a certificate does not renew the holder's hearing aid dealer certificate of registration **on or** before ~~June 30 of an even-numbered year,~~ **the date established by the licensing agency,** the certificate expires without any action taken by the board.

(c) A holder of a hearing aid dealer certificate of registration that expires under this section ~~shall~~ **may** have the certificate reinstated by the ~~board~~ **committee** if, **not later than three (3) years after the license expires,** the holder meets the requirements under ~~IC 25-1-8-6.~~

IC 25-1-8-6(c).

(d) A person who applies for reinstatement of a certificate of registration under this section more than three (3) years after the date the registration expires and becomes invalid may apply for reinstatement by meeting the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 37. IC 25-20.2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** An individual who applies to renew a license as a licensed home inspector must:

(1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and

(2) pay the renewal fee established by the board.

(b) If the holder of a license does not renew the license on or before the renewal date specified by the licensing agency, the license expires and becomes invalid without any action by the board.

(c) A license may be reinstated by the board not later than (3) years after the expiration of the license if the applicant for reinstatement meets the requirements for reinstatement under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 38. IC 25-20.5-1-18, AS AMENDED BY P.L.1-2006, SECTION 442, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A certificate issued by the committee expires on a date established by the Indiana professional licensing agency under IC 25-1-5-4 in the next even-numbered year following the year in which the certificate was issued.

(b) An individual may renew a certificate by paying a renewal fee on or before the expiration date of the certificate.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a certificate, the certificate becomes invalid **without any action of the committee.**

(d) A certificate may be reinstated by the committee not later than three (3) years after its expiration if the applicant for reinstatement meets the requirements for reinstatement under IC 25-1-8-6(c).

(e) If a certificate has been expired for more than three (3) years, the certificate may be reinstated by the committee if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 39. IC 25-21.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** A certificate of registration expires ~~on July 31 in each even-numbered year.~~ **biennially on the date established by the licensing agency under IC 25-1-6-4.**

(b) An individual may renew a certificate of registration by paying a renewal fee on or before the expiration date established by the licensing agency.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a certificate of registration, the certificate of registration becomes invalid without any action of the board.

(d) A certificate of registration may be reinstated by the board not later than three (3) years after its expiration if the applicant for reinstatement meets the requirements for reinstatement under IC 25-1-8-6(c).

(e) If a certificate of registration has been expired for more than three (3) years, the certificate of registration may be reinstated by the board if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 40. IC 25-22.5-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) The board may:

(1) refuse to issue a license;

(2) issue an unlimited license; or

(3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-1-9-12.

(b) Before making a determination under subsection (a), the board may require the applicant to engage in full-scale assessments, formal training programs, supervised practice arrangements, formal testing, or other proof of competence as provided under section 2.7 of this chapter.

~~(b)~~ **(c)** When issuing a probationary license under this section, the board may require the individual holding the license to perform any of

the following acts as a condition for the issuance of a probationary license:

(1) Submit a regular report to the board concerning matters that are the basis of probation.

(2) Limit the practice of the individual to the areas prescribed by the board.

(3) Continue or renew the individual's professional education.

(4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of the individual.

(5) Engage in community restitution or service without compensation for a number of hours specified by the board.

(6) Any combination of these conditions.

~~(c)~~ **(d)** If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection ~~(b).~~ **(c).**

SECTION 41. IC 25-22.5-5-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.7. (a) The board may issue a provisional license to an applicant who:**

(1) has not practiced medicine or has not maintained continued competency for at least two (2) years immediately preceding the filing of an application for an initial license;

(2) has applied for reinstatement of a license under IC 25-1-8-6 that has been lapsed for at least three (3) years; or

(3) has submitted a request, petition, motion, or application to reactivate an inactive license previously issued by the board.

(b) For an applicant to qualify for a provisional license under subsection (a), the board must find the following:

(1) The applicant's practice is deficient in one (1) or more areas.

(2) The nature of the applicant's deficiency is such that it does not constitute a violation of the practice act, other than a de minimis violation, as determined by the board.

(3) The nature of the applicant's identified practice deficiency is such that it may be monitored until resolved to the satisfaction of the board.

(4) The applicant's practice deficiency did not result in death, serious harm, or other serious outcome for a patient or patients.

(5) The applicant's practice deficiency did not represent an intentional or willful commission or omission of an act that constitutes a violation of IC 25-1-9-4, IC 25-22.5, or the rules of the board.

(6) The applicant's practice deficiency did not involve sexual misconduct.

(c) As a condition for an applicant to hold a provisional license, the board may require full-scale assessments, engagement in formal training programs, supervised practice arrangements, formal testing, or other proof of competence.

(d) An applicant under this section shall develop an individualized practice reentry program subject to the approval of the board.

(e) The duration of a provisional license shall be determined by the board and reviewed at least annually by the board.

(f) When an applicant has demonstrated to the board that the applicant has satisfactorily met the terms of the individualized practice reentry program, the applicant shall be released from terms of the provisional license and is entitled to hold an unlimited license under IC 25-22.5-3-1.

(g) A provisional license is a nonrestricted license, and the issuance of a provisional license issued under this section may not be construed as a disciplinary action taken by the board.

(h) The board may take disciplinary action against an applicant who holds a provisional license if, after a hearing, the board finds any of the following:

(1) Failure to comply with any term of the provisional license.

(2) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to make satisfactory progress or successfully complete the requirements of the provisional license.

(3) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to incorporate learned knowledge and skills into the holder's practice or has continued to demonstrate the same practice deficiency that led to the issuance of the provisional

license.

(4) A violation of IC 25-1-9.

(i) The holder of a provisional license may petition the board for modification, withdrawal, or retirement of the provisional license.

SECTION 42. IC 25-22.5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A license issued under this article expires ~~on June 30 of each odd-numbered year. Before June 30 of an odd-numbered year,~~ **biennially on the date established by the licensing agency under IC 25-1-5-4. On or before the date established by the licensing agency,** an applicant for renewal shall pay the biennial renewal fee set by the board under ~~IC 25-22.5-2-7.~~ **IC 25-1-8-2.**

(b) If the holder of a license does not renew the license ~~by June 30 of each odd-numbered year,~~ **on or before the date established by the licensing agency,** the license expires and becomes invalid without any action taken by the board.

(c) A license that becomes invalid under ~~this~~ subsection **(b)** may be reinstated by the board ~~up to~~ **not later than** three (3) years after the invalidation if the holder of the invalid license ~~pays:~~ **meets the requirements for reinstatement under IC 25-1-8-6(c).**

~~(1) the penalty fee set by the board under IC 25-22.5-2-7; and~~

~~(2) the renewal fee for the biennium.~~

~~(c)~~ **(d)** If a license that becomes invalid under this section is not reinstated by the board ~~within~~ **not later than** three (3) years ~~of~~ **after** its invalidation, the holder of the invalid license ~~may be required by the board to take an examination for competence before the board will reinstate the holder's license.~~ **must meet the requirements for reinstatement established by the board under IC 25-1-8-6(d).**

(e) A licensee whose license is reinstated under subsection (d) may be issued a provisional license under IC 25-22.5-5-2.7.

~~(d)~~ **(f)** The board may adopt rules under IC 25-22.5-2-7 establishing requirements for the reinstatement of a lapsed license.

SECTION 43. IC 25-23-1-19.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19.4. (a) As used in this section, "practitioner" has the meaning set forth in IC 16-42-19-5. However, the term does not include the following:

(1) A veterinarian.

(2) An advanced practice nurse.

(3) A physician assistant.

(b) An advanced practice nurse shall operate in collaboration with a licensed practitioner as evidenced by a practice agreement, or by privileges granted by the governing board of a hospital licensed under IC 16-21 with the advice of the medical staff of the hospital that sets forth the manner in which an advanced practice nurse and a licensed practitioner will cooperate, coordinate, and consult with each other in the provision of health care to their patients.

SECTION 44. IC 25-23.7-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** An individual who applies to renew a license as an installer of a manufactured home must:

(1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and

(2) pay the renewal fee established by the board.

(b) If the holder of a license does not renew the license before the date established by the licensing agency, the certificate expires without any action taken by the board.

(c) If a license has been expired for not more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 45. IC 25-24-1-14, AS AMENDED BY P.L.1-2006, SECTION 459, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) In each even-numbered year, the Indiana professional licensing agency shall issue a sixty (60) day notice of expiration and a license renewal application in accordance with ~~IC 25-1-5-4~~ **IC 25-1-2-6** to each optometrist licensed in Indiana. The application shall be mailed to the last known address of the optometrist. ~~and shall contain spaces for the insertion of the licensee's name, address, date, and number of the license, and such other information and questions as the board considers necessary. The licensee shall complete, sign, and return the application for license renewal, together with a fee set by the board under section 1 of this~~

~~chapter, before April 1 of each even-numbered year.~~

~~(b) Upon the receipt of the application and fee, and upon the same being properly verified, the board shall issue a renewal of license.~~

~~(c)~~ **(b)** The payment of the renewal fee must be made on or before ~~April 1 of each even-numbered year.~~ **the date established by the licensing agency under IC 25-1-5-4.** The applicant's license expires and becomes invalid if the applicant has not paid the renewal fee by ~~April 1 of each even-numbered year.~~ **the date established by the licensing agency.**

(c) The license shall be reinstated by the board ~~up to~~ **not later than** three (3) years after its expiration if the applicant for reinstatement meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) Reinstatement of an expired license after the expiration of the three (3) year period provided in subsection (c) is dependent upon ~~reexamination of the applicant by the board.~~ **the applicant satisfying the requirements for reinstatement under IC 25-1-8-6(d).**

(e) The board may classify a license as inactive if the board receives written notification from a licensee stating that the licensee will not maintain an office or practice optometry in Indiana. The renewal fee for an inactive license is one-half (1/2) the license renewal fee set by the board under section 1 of this chapter.

(f) The holder of an inactive license is not required to fulfill continuing education requirements set by the board. The board may issue a license to the holder of an inactive license if the applicant:

(1) pays the renewal fee set by the board under section 1 of this chapter;

(2) pays the reinstatement fee set by the board under section 1 of this chapter; and

(3) subject to IC 25-1-4-3, attests that the applicant obtained the continuing education required by the board under section 1 of this chapter for each year, or portion of a year during which the applicant's license has been classified as inactive.

SECTION 46. IC 25-26-13-14, AS AMENDED BY P.L.98-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) A pharmacist's license expires ~~July 1 of each even-numbered year,~~ **biennially on the date established by the licensing agency under IC 25-1-5-4,** unless renewed before that date.

(b) If an application for renewal is not filed and the required fee

paid before ~~July 1 of each even-numbered year,~~ **the established biennial renewal date,** the license expires and becomes invalid ~~and may be reinstated only by meeting the requirements under IC 25-1-8-6.~~ **without any action taken by the board.**

(c) Subject to IC 25-1-4-3, a statement attesting that the pharmacist has met the continuing education requirements shall be submitted with the application for license renewal.

(d) If a pharmacist surrenders the pharmacist's license to practice pharmacy in Indiana, the board may subsequently consider reinstatement of the pharmacist's license upon written request of the pharmacist. The board may impose any conditions it considers appropriate to the surrender or to the reinstatement of a surrendered license. The practitioner may not voluntarily surrender the practitioner's license to the board without the written consent of the board if any disciplinary proceedings are pending against the practitioner under this chapter or IC 25-1-9.

(e) If a ~~person fails to renew a license that expires under subsection (a) within~~ **license has been expired for not more than** three (3) years, ~~after the date the license expires,~~ the board may reinstate the license only if the person

~~(1)~~ meets the requirements under ~~IC 25-1-8-6;~~ **IC 25-1-8-6(c).** ~~and~~

~~(2) passes an examination concerning state and federal laws that the board considers relevant to the practice of pharmacy.~~

(f) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(f)~~ **(g)** The board may require a person who applies for a license under subsection (e) to appear before the board and explain the reason the person failed to renew the person's license.

~~(g) If a person fails to renew a license that expires under subsection (a) within seven (7) years after the date the license expires, the person must apply for a new license.~~

SECTION 47. IC 25-26-13-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) A pharmacy permit shall expire ~~on December 31 of the odd-numbered year next succeeding the date of issuance.~~ **biennially on a date established by**

the agency under IC 25-1-5-4.

(b) If ~~an application for renewal has not been filed and the required fee paid by January 1 following the date of expiration, the~~ **a** pharmacy permit ~~shall lapse and~~ **lapses for not more than three (3) years, it** may be reinstated ~~only by paying the lapsed permit fee and the appropriate permit fee.~~ **by the board if the holder of the permit meets the requirements established under IC 25-1-8-6(c).**

(c) If a pharmacy permit has been expired for more than three (3) years, the permit may be reinstated by the board if the holder of the permit meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(c)~~ **(d)** No pharmacy may be open for business after ~~December 31 of the renewal year, until the renewal is perfected.~~ **the established biennial renewal date until the permit is reinstated.**

SECTION 48. IC 25-26-17-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 4.5. A nonresident pharmacy that dispenses more than twenty-five percent (25%) of the pharmacy's total prescription volume as a result of an original prescription order received or solicited through the Internet:**

(1) must be accredited:

(A) through the National Association of Boards of Pharmacy's Verified Internet Pharmacy Practice Sites (VIPPS); or

(B) under a program that is substantially similar to the program under clause (A) and that has been approved by the board; and

(2) shall obtain and display a seal of approval for:

(A) the National Association of Boards of Pharmacy; or

(B) the substantially similar program described in subdivision (1)(B);

anywhere that the nonresident pharmacy advertises.

SECTION 49. IC 25-26-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The board may deny, revoke, or suspend the registration of a nonresident pharmacy for:

(1) failing to comply with sections 3, 4, **4.5,** and 6 of this chapter; or

(2) conduct that causes serious bodily or psychological harm to a customer who lives in Indiana or purchased drugs from the nonresident pharmacy while in Indiana, if the board reports the matter to the pharmacy regulatory or licensing agency in the state in which the nonresident pharmacy is located.

SECTION 50. IC 25-26-21-2, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** As used in this chapter, "home medical equipment" means ~~technologically sophisticated medical devices that may be used in a residence, including the following:~~

~~(1) Oxygen and oxygen delivery systems.~~

~~(2) Ventilators.~~

~~(3) Respiratory disease management devices.~~

~~(4) Continuous positive airway pressure (CPAP) devices.~~

~~(5) Electronic and computerized wheelchairs and seating systems.~~

~~(6) Apnea monitors.~~

~~(7) Transcutaneous electrical nerve stimulator (TENS) units.~~

~~(8) Low air loss cutaneous pressure management devices.~~

~~(9) Sequential compression devices.~~

~~(10) Feeding pumps.~~

~~(11) Home phototherapy devices.~~

~~(12) Infusion delivery devices.~~

~~(13) Distribution of medical gases to end users for human consumption.~~

~~(14) Hospital beds.~~

~~(15) Nebulizers.~~

~~(16) Other similar equipment determined by the board in rules adopted under section 7 of this chapter.~~ **equipment that:**

(1) is prescribed by a health care provider;

(2) sustains, restores, or supplants a vital bodily function; and

(3) is technologically sophisticated and requires individualized adjustment or regular maintenance.

(b) The term does not include the following:

(1) Walkers.

(2) Ambulatory aids.

(3) Commodes.

(4) Any other home medical equipment determined by the board in rules adopted under section 7 of this chapter.

SECTION 51. IC 25-26-21-3, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "home medical equipment services" means the:

(1) sale, **rental, delivery, or installation; and**

~~(2) rental;~~

~~(3) delivery;~~

~~(4) installation;~~

~~(5)~~ **(2) installation,** maintenance, ~~or replacement, or~~ **and instruction in the use;**

~~(6) instruction in the use;~~

of medical equipment used by an individual that allows the individual to reside in a noninstitutional environment.

SECTION 52. IC 25-26-21-7, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The board may adopt rules under IC 4-22-2 to do the following:

(1) Specify home medical equipment ~~in addition to the home medical equipment set forth in section 2 of this chapter~~ that is **or is not** to be regulated under this chapter.

(2) Set standards for the licensure of providers.

(3) Govern the safety and quality of home medical equipment services that are provided to customers.

(4) Specify the amount of insurance coverage required under section 6(b)(3) of this chapter.

(5) Set reasonable fees for the application, issuance, and renewal of a license under this chapter and set other fees permitted under IC 25-1-8.

(b) The board may consult with individuals engaged in the home medical equipment services business to advise the board on the formulation of rules under subsection (a). The individuals may not be compensated or reimbursed for mileage by the board.

SECTION 53. IC 25-26-21-8, AS AMENDED BY P.L.98-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) ~~After June 30, 2006,~~ A provider must be licensed by the board before the provider may provide home medical equipment services. If a provider provides home medical equipment services from more than one (1) location in Indiana, the provider must

obtain a license under this chapter for each location.

(b) An applicant shall submit the application to the board on a form adopted by the board. The nonrefundable application fee set by the board must be submitted with the application. The fee must be deposited in the state general fund.

(c) If the board determines that the applicant:

(1) meets the standards set forth by the board; and

(2) has satisfied the requirements under this chapter and the requirements established by the board by rule;

the board shall notify the applicant in writing that the license is being issued to the applicant. The license is effective on the applicant's receipt of the written notification.

(d) A license issued under this chapter ~~is effective for not more than two (2) years, beginning on a date determined by the board.~~ **expires biennially on a date established by the agency under IC 25-1-5-4.** An entity that is licensed under this chapter shall display the license or a copy of the license on the licensed premises.

~~(e) The board may renew a license every two (2) years.~~

(e) A license lapses without any action by the board if an application for renewal has not been filed and the required fee has not been paid by the established biennial renewal date.

(f) If a license under this chapter has been expired for not more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements of IC 25-1-8-6(c).

(g) If a license under this chapter has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(f)~~ **(h)** The board may adopt rules that permit an out-of-state provider to obtain a license on the basis of reciprocity if:

(1) the out-of-state provider possesses a valid license granted by another state;

(2) the legal standards for licensure in the other state are comparable to the standards under this chapter; and

(3) the other state extends reciprocity to providers licensed in Indiana.

However, if the requirements for licensure under this chapter are more restrictive than the standards of the other state, the out-of-state provider

must comply with the additional requirements of this chapter to obtain a reciprocal license under this chapter.

SECTION 54. IC 25-27.5-6-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. (a) This section applies to a physician assistant:**

(1) licensed in Indiana or licensed or authorized to practice in any other state or territory of the United States; or

(2) credentialed as a physician assistant by a federal employer.

(b) As used in this section, "emergency" means an event or a condition that is an emergency, a disaster, or a public health emergency under IC 10-14.

(c) A physician assistant who responds to a need for medical care created by an emergency may render care that the physician assistant is able to provide without the supervision required under this chapter, but with such supervision as is available.

(d) A physician who supervises a physician assistant providing medical care in response to an emergency is not required to meet the requirements under this chapter for a supervising physician.

SECTION 55. IC 25-28.5-1-22, AS AMENDED BY P.L.194-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) Every license or certificate of registration issued under this chapter expires on a date established by the licensing agency under IC 25-1-6-4 and shall be renewed biennially thereafter upon payment of the required renewal fees.

(b) Applications for renewal shall be filed with the commission in the form and manner provided by the commission. The application shall be accompanied by the required renewal fee. The commission, upon the receipt of the application for renewal and the required renewal fee, shall issue to the renewal applicant a license or certificate of registration in the category said applicant has previously held. Unless a license is renewed, a license issued by the commission expires on the date specified by the licensing agency under IC 25-1-6-4.

(c) A license or certificate of registration lapses without any action by the commission if an application for renewal has not been filed and the required fee has not been paid by the established biennial renewal date.

(d) If a license or certificate of registration has been expired for not more than three (3) years, the license or certificate of registration may be reinstated by the commission if the holder of the license or certificate of registration meets the requirements of IC 25-1-8-6(c).

(e) If a license or certificate of registration has been expired for more than three (3) years, the license or certificate of registration may be reinstated by the commission if the holder of the license or certificate of registration meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 56. IC 25-29-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The failure on the part of a podiatrist to renew a license as required does not deprive the individual of the right of renewal ~~until~~ **of** the individual's license. ~~has remained invalid for four (4) consecutive years.~~

(b) The board may ~~issue a renewed~~ **reinstate a** license to a podiatrist who has not renewed the individual's license ~~within~~ **not later than** four (4) years **after the expiration** if the individual

~~(1) passes an examination established by the board;~~

~~(2) pays a fee; and~~

~~(3) meets other conditions the board may establish.~~

meets the requirements under IC 25-1-8-6(c).

(c) If a license has been expired for more than four (4) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 57. IC 25-30-1-16, AS AMENDED BY P.L.185-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) Unless a license is renewed, a license issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires every four (4) years after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) **If** a license **has been expired for not more than three (3) years, the license** may be reinstated ~~not later than thirty (30) days after~~

~~the expiration of the license if the applicant does the following:~~

~~(1) Files an application for renewal with the board.~~

~~(2) Pays the renewal fee and restoration fee established under IC 25-1-8-6.~~

by the board if the holder of the license meets the requirements under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 58. IC 25-30-1.3-17, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Unless a license is renewed, a license issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires every four (4) years after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) **If** a license **has been expired for not more than three (3) years, the license** may be reinstated ~~within three (3) years after the expiration of the license~~ if the ~~applicant does the following:~~

~~(1) Files an application for renewal with the board.~~

~~(2) Pays the fees established under IC 25-1-8-6.~~

holder of the license meets the requirements under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 59. IC 25-31-1-17, AS AMENDED BY P.L.194-2005, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Unless a certificate is renewed, a certificate issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal

fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a certificate does not renew the ~~license~~ **certificate** by the date specified by the licensing agency, the certificate expires and becomes invalid without the board taking any action.

(c) The failure on the part of a registrant to renew a certificate does not deprive the registrant of the right of renewal. ~~until the registrant's certificate has remained invalid during two (2) biennial renewal periods if the registrant pays the appropriate delinquent and renewal fees. After two (2) successive biennial renewal periods have elapsed renewal shall be denied.~~

(d) If a certificate has been expired for not more than three (3) years, the certificate may be reinstated by the board if the holder of the certificate meets the requirements for reinstatement under IC 25-1-8-6(c).

(e) If a certificate has been expired for more than three (3) years, the certificate may be reinstated by the board if the holder of the certificate meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 60. IC 25-32-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The board shall prescribe and provide an application form for the use of all applicants for registration. The applicant shall deposit a fee in an amount set by the board at the time of making application for registration.

(b) All certificates of registration issued by the board expire ~~in each odd-numbered year on July 31.~~ **biennially on the date established by the licensing agency under IC 25-1-5-4.** A renewal fee specified by the board by rule must be paid biennially on or before ~~July 31 of each odd-numbered year.~~ **the date established by the licensing agency.** If the renewal fee is not paid on or before ~~July 31 of each odd-numbered year,~~ **the date established by the licensing agency,** the certificate of registration expires and becomes invalid without further action by the board. A certificate of registration that ~~expires and becomes invalid under this subsection may be reinstated by the board up to three (3) years after the invalidation~~ **has been expired for not more than three (3) years may be reinstated by the board** if the holder of the invalid certificate ~~pays:~~ **meets the requirements under IC 25-1-8-6(c).**

~~(1) the penalty fee set by the board; and~~

~~(2) the renewal fee for the biennium.~~

~~(c) A registration expired in excess of three (3) years is not eligible for renewal. If more than three (3) years have elapsed since the expiration of the registration, an environmental health specialist must:~~

~~(1) submit a new application;~~

~~(2) submit all appropriate application fees; and~~

~~(3) meet all requirements of this chapter.~~

(c) If a certificate of registration has been expired for more than three (3) years, the certificate of registration may be reinstated by the board if the holder of the certificate of registration meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 61. IC 25-33-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A license issued under this article expires ~~September 1 of each even-numbered year.~~ **on the date established by the licensing agency under IC 25-1-5-4.** A renewal fee established by the board under section 3 of this chapter must be paid by an applicant for renewal before the license expires.

(b) If the holder of an expired license fails to renew the license on or before the renewal date, the license expires and becomes invalid without any further action by the board.

(c) A license that expires and becomes invalid under this section may be renewed by the board ~~up to~~ **not more than** three (3) years after the date of the expiration of the license if the applicant meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) If a license has been invalidated under this section for more than three (3) years, the holder of the license may ~~receive a new license from the board only if the holder:~~

~~(1) meets the requirements under IC 25-1-8-6; and~~

~~(2) passes an examination concerning state and federal laws that the board considers relevant to the practice of psychology.~~ **have the license reinstated by meeting the requirements for reinstatement under IC 25-1-8-6(d).**

(e) The board may adopt rules establishing requirements for reinstatement of a license invalidated for more than three (3) years under this section.

(f) An initial license issued under this article is valid for the remainder of the renewal period in effect on the date of issuance.

(g) The board may require a person who applies for a license under

subsection (d) to appear before the board and explain the reason the person failed to renew the person's license.

SECTION 62. IC 25-34.1-3-3.1, AS AMENDED BY P.L.157-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. (a) To obtain a salesperson license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);

(3) apply for a license by submitting the fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;

(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(5) submit not more than one (1) year after passing the written examination under subdivision (4) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:

(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and

(2) issue to the salesperson a pocket identification card which

certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

~~(c) Notice of passing the commission examination serves as a temporary permit to act as a salesperson as soon as the applicant sends, by registered or certified mail with return receipt requested, the certification as prescribed in subsection (a)(5). The temporary permit expires the earliest of the following:~~

~~(1) The date the license is issued.~~

~~(2) The date the applicant's association with the certifying principal broker is terminated.~~

~~The temporary permit may not be renewed, extended, reissued, or otherwise effective for any association other than with the initial certifying principal broker.~~

~~(d)~~ **(c)** A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

(2) be associated with only one (1) principal broker;

(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;

(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and

(5) not maintain any real estate office apart from that office provided by the principal broker.

~~(e)~~ **(d)** Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

~~(f)~~ **(e)** Unless a license is renewed, a salesperson license expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder

of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.

(f) If ~~a salesperson~~ **the holder of a license under this section** fails to ~~reinstate a~~ **renew the license on or before the date specified by the licensing agency, the** license **may be reinstated by the commission** ~~within eighteen (18) months after expiration a~~ **if the holder of the** license, ~~may not be issued unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).~~ **not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).**

(g) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(g)~~ **(h)** A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one (1) year after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

~~(h)~~ **(i)** If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 63. IC 25-34.1-3-4.1, AS AMENDED BY P.L.157-2006, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary

sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one (1) year after passing the commission examination, submit the license fee established by the commission under IC 25-1-8-2. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; or

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the name and

residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee established by the commission under IC 25-1-8-2, an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; or

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

~~(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one (1) year after the date of the notice of passing the examination or the date a license is issued.~~

~~(h)~~ **(g)** Unless the license is renewed, a broker license expires, for individuals, on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.

(h) If ~~a broker~~ **the holder of a license under this section** fails to ~~reinstate a~~ **renew the license on or before the date specified by the**

licensing agency, the license ~~within eighteen (18) months~~ **may be reinstated by the commission** ~~after expiration a~~ **if the holder of the** license, ~~may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).~~ **not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).**

(i) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(i)~~ **(j)** A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 64. IC 25-35.6-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Licenses issued under this article expire, if not renewed, ~~before January 1 of each even-numbered year.~~ **on the date established by the licensing agency under IC 25-1-5-4.**

(b) Every person licensed under this article shall pay a fee for renewal of the person's license before ~~January 1 of each even-numbered year. The board may reinstate a lapsed license upon the person's meeting the requirements under IC 25-1-8-6. No person who requests reinstatement of the person's license, whose license has expired, shall be required to submit to examination as a condition to reinstatement, if the application for reinstatement is made within three (3) years from the date of the expiration.~~ **the date established by the licensing agency.**

(c) If the holder of a license fails to renew the license on or before the date specified by the licensing agency, the license may be reinstated by the board if the holder of the license, not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years,

the license may be reinstated by the board if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(c)~~ **(e)** A suspended license is subject to expiration and may be renewed or reinstated as provided in this section, but a renewal or reinstatement shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

~~(d) Any person who fails to renew the person's license within three (3) years after the date of its expiration may not renew it, and it may not be subsequently restored, reissued, or reinstated, but the person may apply for and obtain a new license if the person meets the requirements of this article.~~

SECTION 65. IC 35-48-7-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.9. (a) As used in this chapter, "dispense" has the meaning set forth in IC 35-48-1-12.**

(b) The term does not apply to the following:

(1) A drug administered directly to a patient.

(2) A drug dispensed by a practitioner, if the quantity dispensed is not more than a seventy-two (72) hour supply of a controlled substance listed in schedule II, III, IV, or V as set forth in IC 35-48-3-9.

SECTION 66. IC 35-48-7-3 IS REPEALED [EFFECTIVE JANUARY 1, 2009].

SECTION 67. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 25-7-6-13; IC 25-7-6-15; IC 25-8-2-3.5; IC 25-8-2-17; IC 25-8-4-20; IC 25-8-4-27; IC 25-8-4-28; IC 25-14.5-6-5; IC 25-15-6-6; IC 25-21.5-8-5; IC 25-26-13-8.

ACTS 2008

Laws enacted by the

115th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION
(2008)

VOLUME III

(P.L.106-2008 through P.L.145-2008)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

P.L.106-2008
[S.307. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-1-10-5, AS AMENDED BY P.L.29-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A state agency may disclose the Social Security number of an individual if any of the following apply:

(1) The disclosure of the Social Security number is expressly required by state law, federal law, or a court order.

(2) The individual expressly consents in writing to the disclosure of the individual's Social Security number.

(3) The disclosure of the Social Security number is:

(A) made to comply with:

(i) the USA Patriot Act of 2001 (P.L. 107-56); or

(ii) Presidential Executive Order 13224; or

(B) to a commercial entity for the permissible uses set forth in the:

(i) Drivers Privacy Protection Act (18 U.S.C. 2721 et seq.);

(ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(iii) Financial Modernization Act of 1999 (15 U.S.C. 6801 et seq.).

(4) The disclosure of the Social Security number is for the purpose of administration of a state agency employee's or the state agency employee's dependent's health benefits.

(5) The disclosure of the Social Security number is for the purpose of administration of:

(A) a pension fund administered by the board of trustees of the public employees' retirement fund;

(B) the Indiana state teachers' retirement fund;

(C) a deferred compensation plan or defined contribution plan established under IC 5-10-1.1; ~~or~~

(D) a pension plan established by the state police department under IC 10-12; **or**

(E) the Uniform Commercial Code (IC 26-1) by the office of the secretary of state.

(b) A state agency's disclosure of the Social Security number of an individual in compliance with subsection (a) does not violate IC 5-14-3-4(a)(12).

SECTION 2. IC 4-5-1-11, AS ADDED BY P.L.184-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The secretary of state may adopt and enforce rules under IC 4-22-2 that are necessary to carry out:

(1) IC 9-18-26;

(2) IC 9-22-4;

~~(1)~~ **(3)** IC 9-23-1;

~~(2)~~ **(4)** IC 9-23-2;

~~(3)~~ **(5)** IC 9-23-3; and

~~(4)~~ **(6)** IC 9-23-6.

SECTION 3. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and

(2) sold not less than one hundred fifty (150) motor vehicles during the preceding **calendar** year.

(b) This section does not apply to the following:

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the ~~bureau~~ **secretary of state** to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 4. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is otherwise transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

(4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an encumbrance on the certificate of title, within the twenty-one

(21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation.

(2) Two hundred fifty dollars ($250) for the second violation.

(3) Five hundred dollars ($500) for all subsequent violations.

Payment shall be made to the ~~bureau~~ **secretary of state** and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars ($100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's

possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 5. IC 9-18-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A person licensed under IC 9-23-2 may apply for a dealer license plate. The application must include any information the ~~bureau~~ **secretary of state** reasonably requires. Upon application, a distinctive registration number shall be assigned to each applicant. Two (2) certificates of registration and two (2) ~~sets of~~ metal license plates bearing the applicant's registration number shall then be issued to the applicant.

SECTION 6. IC 9-18-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The ~~bureau~~ **secretary of state** shall issue dealer license plates under this chapter according to the following classifications:

(1) Dealer-new.

(2) Dealer-used.

(3) Manufacturer.

(b) The ~~bureau~~ **secretary of state** may adopt rules under IC 4-22-2 to establish additional classifications of dealer license plates and may prescribe the general conditions for usage of an additional classification. The ~~bureau~~ **secretary of state** shall establish the

classification of antique car museum dealer license plates.

SECTION 7. IC 9-18-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~bureau~~ **secretary of state** shall determine the color, dimension, and style of the letters and the information required on a dealer license plate issued under this chapter.

SECTION 8. IC 9-18-26-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Upon payment of the fee under IC 9-29-8, an applicant may obtain additional dealer license plates of the same category. The applicant must demonstrate the applicant's need for additional plates by stating the applicant's number of employees, annual sales, and other supporting factors. The ~~bureau~~ **secretary of state** shall determine whether the applicant is entitled to additional plates.

SECTION 9. IC 9-18-26-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Dealer-new, dealer-used, and manufacturer license plates may be used without restriction by a manufacturer, a dealer, or an employee of a manufacturer or a dealer under rules adopted by the ~~bureau~~ **secretary of state** to prohibit use of the plates solely to avoid payment of applicable taxes.

SECTION 10. IC 9-18-26-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~bureau~~ **secretary of state** may issue an interim license plate to a dealer or manufacturer who is licensed and has been issued a license plate under section 1 of this chapter.

(b) The ~~bureau~~ **secretary of state** shall prescribe the form of an interim license plate issued under this section. However, a plate must bear the assigned registration number and provide sufficient space for the expiration date as provided in subsection (c).

(c) Whenever a dealer or manufacturer sells a motor vehicle, the dealer or manufacturer may provide the buyer with an interim license plate. The dealer shall, in the manner provided by the ~~bureau,~~ **secretary of state,** affix on the plate in numerals and letters at least three (3) inches high the date on which the interim license plate expires.

(d) An interim license plate authorizes a motor vehicle owner to operate the vehicle for a maximum period of thirty-one (31) days after

the date of delivery of the vehicle to the vehicle's owner or until a regular license plate is issued, whichever occurs first.

(e) A motor vehicle that is required by law to display license plates on the front and rear of the vehicle is only required to display a single interim plate.

SECTION 11. IC 9-18-26-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. A person who knowingly violates a rule adopted by the ~~bureau~~ **secretary of state** regarding the classification and use of a dealer plate commits a Class A infraction.

SECTION 12. IC 9-18-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. A person who violates this chapter or a rule or order of the ~~bureau~~ **secretary of state** issued under this chapter is subject to a civil penalty of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) for each day of violation and for each act of violation, as determined by the court. All civil penalties recovered under this chapter shall be paid to the state.

SECTION 13. IC 9-18-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. In addition to the civil penalty imposed under section 14 of this chapter, the ~~bureau~~ **secretary of state** may restrict, suspend, or revoke a dealer permanent or interim license plate that was issued to the violator.

SECTION 14. IC 9-18-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. Whenever a person violates this chapter or a rule or order of the ~~bureau~~ **secretary of state** issued under this chapter, the ~~bureau~~ **secretary of state** may institute a civil action in any circuit or superior court of Indiana for injunctive relief to restrain the person from continuing the activity or for the assessment and recovery of the civil penalty provided in section 14 of this chapter, or both.

SECTION 15. IC 9-18-26-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. At the request of the ~~bureau,~~ **secretary of state,** the attorney general shall institute and conduct an action in the name of the state for:

(1) injunctive relief or to recover the civil penalty provided by section 14 of this chapter;

(2) the injunctive relief provided by section 16 of this chapter; or

(3) both.

SECTION 16. IC 9-18-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All records directly related to the use of interim plates by a dealer must be made available to an investigating employee of the ~~bureau~~ **secretary of state** upon demand at the dealer's place of business.

SECTION 17. IC 9-22-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The ~~bureau~~ **secretary of state** shall prescribe recordkeeping forms to be used by:

(1) a disposal facility;

(2) an automotive salvage rebuilder; and

(3) a used parts dealer licensed under IC 9-22-4;

to preserve information about salvage vehicles or major component parts acquired or sold by the business.

(b) The recordkeeping forms required under subsection (a) must contain the following information:

(1) For each new or used vehicle acquired or disposed of or for the major component parts of a new or used vehicle, the following:

(A) A description of the vehicle or major component part, including numbers or other marks identifying the vehicle or major component part.

(B) The date the vehicle or major component part was acquired and disposed of.

(C) The name and address of the person from whom the vehicle or major component part was acquired.

(D) Verification of the purchaser of the vehicle or major component part by driver's license, state identification card, or other reliable means.

(2) For motor vehicles acquired or disposed of, in addition to the information required by subdivision (1), the following:

(A) The vehicle's trade name.

(B) The vehicle's manufacturer.

(C) The vehicle's type.

(D) The model year and vehicle identification number.

(E) A statement of whether any number has been defaced, destroyed, or changed.

(3) For wrecked, dismantled, or rebuilt vehicles, the date the

vehicle was dismantled or rebuilt.

(c) Separate records for each vehicle or major component part must be maintained.

(d) The recordkeeping requirements of this section do not apply to hulk crushers or to scrap metal processors when purchasing scrap from a person who is licensed under IC 9-22-4 and who is required to keep records under this section.

SECTION 18. IC 9-22-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A disposal facility, a used parts dealer, or an automotive salvage rebuilder must be licensed by the ~~bureau~~ **secretary of state** under this chapter before the facility, dealer, or rebuilder may do any of the following:

(1) Sell a used major component part of a vehicle.

(2) Wreck or dismantle a vehicle for resale of the major component parts of the vehicle.

(3) Rebuild a wrecked or dismantled vehicle.

(4) Possess more than two (2) inoperable vehicles subject to registration for more than thirty (30) days.

(5) Engage in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or the parts of vehicles.

SECTION 19. IC 9-22-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. To apply for a license under this chapter, a disposal facility, a used parts dealer, or an automotive salvage rebuilder must do the following:

(1) File a completed application, which must be verified by the ~~bureau.~~ **secretary of state.**

(2) Submit with the application the licensing fee under IC 9-29-7 to the ~~bureau.~~ **secretary of state.**

SECTION 20. IC 9-22-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~bureau~~ **secretary of state** shall prescribe an application form to be used by persons applying for a license under this chapter. The application must include the following information:

(1) The applicant's name.

(2) The applicant's type of business organization and the following as appropriate:

(A) If the applicant is a corporation, the name and address of each officer and director of the corporation.

(B) If the applicant is a sole proprietorship, the name and address of the sole proprietor.

(C) If the applicant is a partnership, the name and address of each partner.

(D) If the applicant is an unincorporated association or similar form of business organization, the name and address of each member, trustee, or manager.

(3) The applicant's principal place of business.

(4) All places other than the applicant's principal place of business at which the applicant proposes to conduct any of the activities set out in section 1 of this chapter.

(5) The types of activities set out in section 1 of this chapter that the applicant proposes to conduct.

SECTION 21. IC 9-22-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Within a reasonable time, the ~~bureau~~ **secretary of state** shall do the following:

(1) Review all applications submitted under this chapter.

(2) Approve all applications submitted unless any of the following apply:

(A) The application does not conform with this chapter.

(B) The applicant has made a material misrepresentation on the application.

(C) The applicant has been guilty of a fraudulent act in connection with one (1) of the activities specified in section 1 of this chapter.

SECTION 22. IC 9-22-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A person denied a license under section 5 of this chapter is entitled to a hearing under ~~IC 4-21.5-3.~~ **section 10 of this chapter.**

SECTION 23. IC 9-22-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. If the ~~bureau~~ **secretary of state** approves an application under this chapter, the ~~bureau~~ **secretary of state** shall grant the applicant the following:

(1) An original license for the applicant's principal place of business.

(2) A supplemental license for each other place of business listed on the application.

SECTION 24. IC 9-22-4-8 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The ~~bureau~~ **secretary of state** shall prescribe the form of the licenses granted under section 7 of this chapter. A license granted under section 7 of this chapter must include the following information:

(1) The licensee's name.

(2) The licensee's type of business organization and the following as appropriate:

(A) If a corporation, the name and address of each officer.

(B) If a sole proprietorship, the name and address of the proprietor.

(C) If a partnership, the name and address of each managing partner.

(D) If an unincorporated association or similar form of business organization, the name and address of the manager or other chief administrative official.

(3) The licensee's principal place of business.

(4) The place of business to which each supplemental license applies.

(5) A listing of the types of business activities specified in section 1 of this chapter that the licensee may conduct.

(6) The date the license expires.

SECTION 25. IC 9-22-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a) The secretary of state may investigate a violation of this chapter, including a violation of a rule adopted under section 12 of this chapter. In conducting an investigation under this subsection, the secretary of state may do the following:**

(1) Administer oaths and affirmations.

(2) Subpoena witnesses and compel attendance.

(3) Take evidence.

(4) Require the production of documents or records that the secretary of state determines are material to the investigation.

Upon a motion by the secretary of state, the court may order a person that fails to obey a subpoena issued under subdivision (2) to obey the subpoena.

(b) A person may not be excused from:

(1) obeying a subpoena issued by;

(2) attending a proceeding and testifying as ordered by; or

(3) otherwise producing evidence as ordered by;

the secretary of state on grounds that the person's testimony or evidence may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person that asserts the privilege against self-incrimination may not be prosecuted or subjected to a penalty or forfeiture for any matter concerning the person's testimony or evidence.

(c) Following an investigation under subsection (a), the secretary of state may, without a hearing, issue orders and notices that the secretary of state determines to be in the public interest. The ~~bureau~~ **secretary of state** may ~~revoke or suspend~~ **issue an order under this subsection suspending or revoking** the license of a disposal facility, used parts dealer, or automotive salvage rebuilder ~~after providing a fifteen (15) day written notice and conducting a hearing under IC 4-21.5-3~~ **only** if the ~~bureau~~ **secretary of state** determines that any of the following conditions ~~exists.~~ **exist:**

(1) The licensee made a material misrepresentation on the license application.

(2) The licensee committed a fraudulent act in connection with one (1) of the activities specified in section 1 of this chapter.

(3) The licensee committed a material violation of the recordkeeping requirements of IC 9-22-3-19.

(4) The licensee has violated any other provision of this chapter or the rules adopted under this chapter by the bureau.

(5) The licensee has committed a violation of a statute concerning theft, arson, mischief, forgery, deception, or fraud, or the motor vehicle titling laws.

(6) The licensee has had a license issued under IC 9-23 revoked or suspended.

(d) Upon the entry of an order under subsection (c), the secretary of state shall promptly notify all interested parties of the following:

(1) The date of issuance.

(2) The reasons for issuance.

(3) That, upon written request, the matter will be set for hearing within fifteen (15) business days after receipt of the request.

(e) An order issued under subsection (c) remains in effect until

the secretary of state:

(1) modifies or vacates the order; or

(2) conducts a hearing and issues a final determination.

(f) If the secretary of state conducts a hearing under this section, the secretary of state may depose any witness.

(g) In addition to all other remedies, the secretary of state may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate this chapter:

(1) An injunction.

(2) Appointment of a receiver or conservator.

(3) A civil penalty not to exceed five thousand dollars ($5,000) per violation.

(4) An action to enforce a civil penalty assessed under subdivision (3).

(h) In a court proceeding initiated under this section in which judgment is awarded to the secretary of state, the secretary of state is entitled to recover the costs and expenses of investigation, and the court shall include the costs in its final judgment.

SECTION 26. IC 9-22-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. If the ~~bureau~~ **secretary of state** receives a written complaint from a local zoning body that a disposal facility or automotive salvage rebuilder subject to this chapter is operating in violation of a local zoning ordinance, the ~~bureau~~ **secretary of state** shall delay the issuance or renewal of the facility's or rebuilder's license until the local zoning complaints have been satisfied.

SECTION 27. IC 9-22-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The ~~bureau~~ **secretary of state** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 28. IC 9-22-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. (a) An appeal may be taken from a final order of the secretary of state under this chapter as follows:**

(1) By an applicant for a license under this chapter, from a final order of the secretary of state concerning the application.

(2) By a licensee, from a final order of the secretary of state affecting the licensee's license under this chapter.

(3) By a person against whom a civil penalty is assessed under section 10(g)(3) of this chapter, from the final order of the secretary of state assessing the civil penalty.

(4) By a person named as a respondent in an investigation or a proceeding under section 10 of this chapter, from a final order of the secretary of state entered under section 10 of this chapter. An appeal under this subdivision may be taken in:

(A) the Marion County circuit court; or

(B) the circuit or superior court of the county in which the appellant resides or maintains a place of business.

(b) A person who seeks to appeal a final order of the secretary of state under this section must serve the secretary of state with the following not more than twenty (20) days after the entry of the order:

(1) A written notice of the appeal stating:

(A) the court in which the appeal will be taken; and

(B) the grounds on which a reversal of the final order is sought.

(2) A written demand from the appellant for:

(A) a certified transcript of the record; and

(B) all papers on file in the secretary of state's office;

concerning the order from which the appeal is being taken.

(3) A bond in the penal sum of five hundred dollars ($500) payable to the state with sufficient surety to be approved by the secretary of state, conditioned upon:

(A) the faithful prosecution of the appeal to final judgment; and

(B) the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the secretary of state is served with the items described in subsection (b), the secretary of state shall make, certify, and deliver to the appellant the transcript described in subsection (b)(2)(A). Not later than five (5) days after the appellant receives the transcript under this subsection, the appellant shall file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The secretary of state may appear before

the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be heard de novo and shall be given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the secretary of state from which the appeal is taken. If the order of the secretary of state is reversed, the court shall in its mandate specifically direct the secretary of state as to the secretary of state's further action in the matter. The secretary of state is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant may, after thirty (30) days from the date the order is affirmed, file a new application for a license under this chapter if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

(e) IC 4-21.5 does not apply to a proceeding under this chapter.

SECTION 29. IC 9-23-2-13, AS AMENDED BY P.L.184-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Except as provided in IC 9-29-1-5 **and IC 9-29-8-7,** all revenues accruing to the secretary of state under this article shall be deposited in the motor vehicle highway account. ~~All necessary expenses incurred and all compensation paid by the secretary of state for administering this article shall be paid out of funds appropriated from the motor vehicle highway account for this purpose.~~

SECTION 30. IC 9-23-2-14, AS AMENDED BY P.L.184-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a) The secretary of state may investigate a violation of this chapter. In conducting an investigation under this subsection, the secretary of state may do the following:**

(1) Administer oaths and affirmations.

(2) Subpoena witnesses and compel attendance.

(3) Take evidence.

(4) Require the production of documents or records that the

secretary of state determines are material to the investigation. Upon a motion by the secretary of state, the court may order a person that fails to obey a subpoena issued under subdivision (2) to obey the subpoena.

(b) A person may not be excused from:

(1) obeying a subpoena issued by;

(2) attending a proceeding and testifying as ordered by; or

(3) otherwise producing evidence as ordered by:

the secretary of state on grounds that the person's testimony or evidence may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person that asserts the privilege against self-incrimination may not be prosecuted or subject to a penalty or forfeiture for any matter concerning the person's testimony or evidence.

~~(a)~~ **(c) Following an investigation under subsection (a), the secretary of state may, without hearing, issue orders and notices that the secretary of state determines to be in the public interest. The secretary of state may issue an order under this subsection denying, suspending, or revoking** a license issued under this chapter ~~may be denied, suspended, or revoked~~ for any of the following:

(1) Material misrepresentation in the application for the license or other information filed with the secretary of state.

(2) Lack of fitness under the standards set forth in this article or a rule adopted by the secretary of state under this article.

(3) Willful failure to comply with the provisions of this article or a rule adopted by the secretary of state under this article.

(4) Willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a rule adopted by the secretary of state under this article.

(6) Violating IC 23-2-2.7.

(7) Violating IC 9-19-1.

Except as **otherwise** provided, ~~in subsection (d), the procedures set forth in IC 4-21.5 govern the denial, suspension, or revocation of a license and a judicial review.~~ a denial, suspension, or revocation of a license takes effect after the secretary of state makes a determination and notice of the determination has been served upon the affected person.

~~(b) If the secretary of state denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the secretary of state's determination.~~

(d) Upon the entry of an order under subsection (c), the secretary of state shall promptly notify all interested parties of the following:

(1) The date of issuance.

(2) The reasons for issuance.

(3) That, upon written request from a party, the matter will be set for hearing within fifteen (15) business days after receipt of the request.

(e) An order entered under subsection (c) remains in effect until the secretary of state:

(1) modifies or vacates the summary order; or

(2) conducts a hearing and issues a final determination.

~~(c)~~ **(f)** Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

~~(d) A license may be denied, suspended, or revoked for violating IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of a license under this subsection. The secretary of state may issue a temporary order to enforce this subsection.~~

(g) If the secretary of state conducts a hearing under this section, the secretary of state may depose any witness.

(h) In addition to all other remedies, the secretary of state may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate this chapter:

(1) An injunction.

(2) Appointment of a receiver or conservator.

(3) A civil penalty not to exceed five thousand dollars ($5,000) per violation.

(4) An action to enforce a civil penalty assessed under subdivision (3).

(i) In a court proceeding initiated under this section in which judgment is awarded to the secretary of state, the secretary of state is entitled to recover the costs and expenses of investigation, and the court shall include the costs in its final judgment.

SECTION 31. IC 9-23-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) An appeal may be taken from a final order of the secretary of state under this chapter as follows:**

(1) By an applicant for a license under this chapter, from a final order of the secretary of state concerning the application.

(2) By a licensee, from a final order of the secretary of state affecting the licensee's license under this chapter.

(3) By a person against whom a civil penalty is imposed under section 14 of this chapter, from the final order of the secretary of state imposing the civil penalty.

(4) By a person named as a respondent in an investigation or a proceeding under section 14 of this chapter, from a final order of the secretary of state under section 14 of this chapter. An appeal under this subdivision may be taken in:

(A) the Marion County circuit court; or

(B) the circuit or superior court of the county in which the appellant resides or maintains a place of business.

(b) A person who seeks to appeal a final order of the secretary of state under this section must serve the secretary of state with the following not more than twenty (20) days after the entry of the order:

(1) A written notice of the appeal stating:

(A) the court in which the appeal will be taken; and

(B) the grounds on which a reversal of the final order is sought.

(2) A written demand from the appellant for:

(A) a certified transcript of the record; and

(B) all papers on file in the secretary of state's office;

concerning the order from which the appeal is being taken.

(3) A bond in the penal sum of five hundred dollars ($500) payable to the state with sufficient surety to be approved by

the secretary of state, conditioned upon:

(A) the faithful prosecution of the appeal to final judgment; and

(B) the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the secretary of state is served with the items described in subsection (b), the secretary of state shall make, certify, and deliver to the appellant the transcript described in subsection (b)(2)(A). Not later than five (5) days after the appellant receives the transcript under this subsection, the appellant shall file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The secretary of state may appear before the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be heard de novo and shall be given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the secretary of state from which the appeal is taken. If the order of the secretary of state is reversed, the court shall in its mandate specifically direct the secretary of state as to the secretary of state's further action in the matter. The secretary of state is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant may, after thirty (30) days from the date the order is affirmed, file a new application for a license under this chapter if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

(e) IC 4-21.5 does not apply to a proceeding under this chapter.

SECTION 32. IC 9-23-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18. (a) The dealer compliance account is established as a separate account to be administered by the secretary of state. The funds in the account must be available, with the approval of**

the budget agency, for use in enforcing and administering this chapter.

(b) The expenses of administering the dealer compliance account shall be paid from money in the account.

(c) The treasurer of state shall invest the money in the dealer compliance account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) The dealer compliance account consists of the following:

(1) Money deposited under:

(A) IC 9-29-5-43(b).

(B) IC 9-29-8-7(1).

(2) Appropriations to the account from other sources.

(3) Grants, gifts, donations, or transfers intended for deposit in the account.

(4) Interest that accrues from money in the account.

(e) Money in the dealer compliance account at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the dealer compliance account is continuously appropriated to the secretary of state for the purposes of the account.

SECTION 33. IC 9-29-5-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. **(a)** Except as otherwise provided by this chapter, **subsection (b),** and IC 9-29-1-2, registration fees collected under this chapter shall be paid into the state general fund for credit to the motor vehicle highway account.

(b) Fees collected under this chapter for license plates issued under IC 9-18-26 by the secretary of state shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.

(2) Seventy percent (70%) to the motor vehicle highway account.

SECTION 34. IC 9-29-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A licensing fee that is submitted with an application under IC 9-22-4 shall be returned to the applicant if the application is rejected by the ~~bureau.~~ **secretary of**

state.

SECTION 35. IC 9-29-8-7, AS AMENDED BY P.L.184-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. All money collected by the secretary of state from manufacturers, factory branches, distributors, distributor branches, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, or brokers for licenses and permit fees under IC 9-23-2 shall be ~~credited to the motor vehicle odometer fund and allocated under IC 9-29-1-5.~~ **deposited as follows:**

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.

(2) Seventy percent (70%) to the motor vehicle highway account.

SECTION 36. IC 9-29-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The fees under IC 9-31-4 for a boat dealer's license for each full year are as follows:

(1) For a Class A dealer, thirty dollars ($30) for the first place of business, plus ten dollars ($10) for each additional location.

(2) For a Class B dealer, twenty dollars ($20).

(b) The ~~bureau~~ **secretary of state** retains the fees collected under subsection (a).

SECTION 37. IC 9-29-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The fee for a change of business name or location under IC 9-31-4-4 is five dollars ($5).

(b) The fee is retained by the ~~bureau.~~ **secretary of state.**

SECTION 38. IC 9-31-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A motorboat that has never been registered in Indiana and that is purchased from a dealer licensed by the ~~bureau~~ **secretary of state** under IC 9-31-4 may be operated on the waters of Indiana for a period of thirty-one (31) days from the date of purchase if the operator has in the operator's possession the following:

(1) A bill of sale from the dealer giving the purchaser's name and address, the date of purchase, and the make and type of boat or the hull identification number.

(2) A temporary permit displayed on the forward portion of the

boat, as provided in section 6 of this chapter.

SECTION 39. IC 9-31-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The ~~bureau~~ **secretary of state** shall furnish temporary permits and registration forms to a registered dealer upon request.

(b) A plate or card described in subsection (a) must display the following information:

(1) The dealer's license number.

(2) The date of purchase, plainly stamped or stenciled on the plate or card.

(c) A temporary permit may not be used or displayed unless the plate or card is furnished by the bureau.

(d) A dealer who authorizes the use of a temporary permit under this section does not assume responsibility or incur liability for injury to a person or property during the period the temporary permit is in effect.

SECTION 40. IC 9-31-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. A dealer licensed by the ~~bureau~~ **secretary of state** under IC 9-31-4 may, upon application to the ~~bureau,~~ **secretary of state,** obtain a certificate of number for use in the testing or demonstrating of motorboats upon payment of the fee prescribed under IC 9-29-15-6 for each registration number. The ~~bureau~~ **secretary of state** shall issue ~~two (2) plates~~ **one (1) plate** for each certificate of number assigned under this section. ~~One (1)~~ **The** plate must be displayed ~~on each side of~~ **within** a boat that is being tested or demonstrated while the boat is being tested or demonstrated.

SECTION 41. IC 9-31-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An application for a license must meet all the following conditions:

(1) Be accompanied by the fee under IC 9-29-15-7.

(2) Be on a form prescribed by the ~~bureau.~~ **secretary of state.**

(3) Contain any information that the ~~bureau~~ **secretary of state** reasonably needs to enable the ~~bureau~~ **secretary of state** to determine fully the qualifications and eligibility of the applicant to receive the license, the location of each of the applicant's places of business in Indiana, and the ability of the applicant to conduct properly the business for which the application is submitted.

(b) An application for a license as a dealer must show whether the

applicant proposes to sell new or used boats or both.

SECTION 42. IC 9-31-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A license issued to a dealer must specify the location of each place of business and shall be conspicuously displayed at each business location. If a business name or location is changed, the holder shall notify the ~~bureau~~ **secretary of state** within ten (10) days and remit the fee specified under IC 9-29-15-8. The ~~bureau~~ **secretary of state** shall endorse that change on the license if it is determined that the change is not subject to other provisions of this chapter.

SECTION 43. IC 9-31-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a)~~ A license issued under this chapter is valid for ~~two (2) years~~ **one (1) year** after the date the license is issued. ~~as long as the annual fee is paid.~~ All license fees shall be paid ~~in advance~~ at the annual rate under IC 9-29-15-7.

~~(b) A person who surrenders a license at least twelve (12) months before the expiration date of the license may be refunded one-half (1/2) of the annual fee.~~

SECTION 44. IC 9-31-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A license may be denied, suspended, or revoked for any of the following:

(1) A material misrepresentation in the application for a license or other information filed with the ~~bureau.~~ **secretary of state.**

(2) A lack of fitness under the standards set forth in this chapter or a rule adopted by the ~~bureau~~ **secretary of state** under this chapter.

(3) A willful failure to comply with this chapter or any rule adopted by the ~~bureau~~ **secretary of state** under this chapter.

(4) A willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of boats.

(b) The procedures set forth in ~~IC 4-21.5~~ **IC 9-22-4** ~~govern~~ **governing the denial, suspension, or revocation of a license issued under IC 9-22-4 also apply to** the denial, suspension, or revocation of a license **issued under this chapter.** ~~and judicial review of these actions. However,~~ If the ~~bureau~~ **secretary of state** denies, suspends, or revokes a license issued or sought under this chapter, the affected person may file an action in the circuit court of the Indiana county in which the person's principal place of business is located seeking a

judicial determination as to whether the action is proper. The ~~bureau's~~ **secretary of state's** action does not take effect until thirty (30) days after the ~~bureau's~~ **secretary of state's** determination has been made and a notice is served upon the affected person. The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the ~~bureau's~~ **secretary of state's** determination.

(c) Revocation or suspension of a license of a dealer may be limited to one (1) or more locations, one (1) or more defined areas, or certain aspects of the business.

SECTION 45. IC 9-31-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. In carrying out ~~its~~ **the** duties **imposed on the secretary of state** under this chapter, the ~~bureau~~ **secretary of state** may do the following:

(1) Investigate and evaluate the qualifications of applicants for a license.

(2) Issue, deny, suspend, and revoke licenses.

(3) Investigate and conduct hearings on violations of this chapter.

(4) Issue orders and determinations.

(5) Sue and be sued in the name of the ~~bureau~~ **secretary of state** or the state.

SECTION 46. IC 9-31-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~bureau~~ **secretary of state** shall use all revenues accruing to the ~~bureau~~ **secretary of state** under this chapter to enforce this chapter and Indiana boat registration laws. All necessary expenses incurred and all compensation paid by the ~~bureau~~ **secretary of state** for administering this chapter shall be paid out of the revenue received under this chapter and from any supplemental appropriations.

SECTION 47. IC 15-7-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. The secretary of state shall charge and collect, for the benefit of the state, to be paid to the general fund of the state of Indiana, the following fees to wit:

(a) For filing with the secretary of state, the articles of incorporation of any association organized or corporation reorganized under this chapter, which provides for the issuance of membership certificates only, and not for certificates of stock, five dollars ($5).

(b) For filing with the secretary of state, articles of incorporation

of any association organized or any corporation reorganized under this chapter, which provides for the issue of capital stock, not in excess of five thousand dollars ($5,000) of par value, five dollars ($5). If the capital stock authorized to be issued by any such association shall exceed five thousand dollars ($5,000), one cent ($0.01) for each one hundred dollars ($100) of additional par value.

(c) For filing with the secretary of state, a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars ($5,000) of par value, five dollars ($5), and for each one hundred dollars ($100) of par value of increase above such amount, one cent ($0.01).

(d) For filing with the secretary of state, any certificate not herein specified, five dollars ($5) each, regardless of the number of amendments contained in said certificate, except increases of capital stock upon which the fee shall be as hereinbefore provided.

(e) For filing biennial or special reports of associations, two dollars ($2) for each filing, which shall be in addition to any and all other fees herein specified. The biennial report filing fee is one dollar ($1) per year, to be paid biennially.

~~(f) For filing designation of or change of resident agent for any association, one dollar ($1).~~

~~(g)~~ **(f)** For each certificate issued by the secretary of state, one dollar ($1), and for each impression of the great seal of the state of Indiana, affixed by ~~him~~ **the secretary of state** on said certificate, fifty cents ($0.50).

SECTION 48. IC 15-12-1-48, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) The secretary of state shall charge and collect for the benefit of the state the following fees:

(1) For filing with the secretary of state the articles of incorporation of an association organized or a corporation reorganized under this chapter providing for the issuance of membership certificates only and not for certificates of stock, five dollars ($5).

(2) For filing with the secretary of state articles of incorporation of an association organized or a corporation reorganized under

this chapter providing for the issuance of capital stock not ~~in excess of~~ **exceeding** five thousand dollars ($5,000) of par value, five dollars ($5). If the capital stock authorized to be issued by the association exceeds five thousand dollars ($5,000), one cent ($0.01) for each one hundred dollars ($100) of additional par value.

(3) For filing with the secretary of state a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars ($5,000) of par value, five dollars ($5), and for each one hundred dollars ($100) of par value of increase above five thousand dollars ($5,000), one cent ($0.01).

(4) For filing with the secretary of state any certificate not specified in this section, five dollars ($5) each, regardless of the number of amendments contained in the certificate, with the exception of increases of capital stock. The fee for ~~which~~ **increases of capital stock** is as provided in subdivision (3).

(5) For filing biennial or special reports of associations, two dollars ($2) for each filing, which is in addition to any other fees specified in this section. The biennial report filing fee is one dollar ($1) per year, to be paid biennially.

~~(6) For filing a designation of or a change of resident agent for any association, one dollar ($1).~~

~~(7)~~ **(6)** For each certificate issued by the secretary of state, one dollar ($1), and for each impression of the seal of the state of Indiana affixed by the secretary of state on the certificate, fifty cents ($0.50).

(b) Fees collected under subsection (a) shall be deposited in the state general fund.

SECTION 49. IC 23-1-18-3, AS AMENDED BY P.L.60-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (c),~~ The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary of state for filing:

Document	**Electronic Filing Fee**	Fee **(Other than electronic filing)**

(1)	Articles of incorporation	**$75**	$90
(2)	Application for use of indistinguishable name	**$10**	$20
(3)	Application for reserved name	**$10**	$20
(4)	Application for renewal of reservation	**$10**	$20
(5)	Notice of transfer of reserved name	**$10**	$20
(6)	Application for registered name	**$20**	$30
(7)	Application for renewal of registered name	**$20**	$30
(8)	Corporation's statement of change of registered agent or registered office or both	No Fee	**No Fee**
(9)	Agent's statement of change of registered office for each affected corporation	No Fee	**No Fee**
(10)	Agent's statement of resignation	No Fee	**No Fee**
(11)	Amendment of articles of incorporation	**$20**	$30
(12)	Restatement of articles of incorporation	**$20**	$30
	With amendment of articles	**$20**	$30
(13)	Articles of merger or share exchange	**$75**	$90
(14)	Articles of dissolution	**$20**	$30
(15)	Articles of revocation of dissolution	**$20**	$30
(16)	Certificate of administrative dissolution	No Fee	**No Fee**
(17)	Application for reinstatement following administrative dissolution	**$20**	$30
(18)	Certificate of reinstatement	No Fee	**No Fee**
(19)	Certificate of judicial dissolution	No Fee	**No Fee**

(20)	Application for certificate of authority	**$75**	$90
(21)	Application for amended certificate of authority	**$20**	$30
(22)	Application for certificate of withdrawal	**$20**	$30
(23)	Certificate of revocation of authority to transact business	No Fee	**No Fee**
(24)	Biennial report ~~filed in writing including by facsimile~~	**$20**	$30
~~(25)~~	~~Biennial report filed by electronic medium~~	~~$20~~	
~~(26)~~ **(25)**	Articles of correction	**$20**	$30
~~(27)~~ **(26)**	Application for certificate of existence or authorization	$15	**$15**
~~(28)~~ **(27)**	Any other document required or permitted to be filed by this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without additional fee in connection with particular filings) and a request for other facts of record under section 9(b)(6) of this chapter	**$20**	$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The fee set forth in subsection (a)(24) for filing a biennial report is:

(1) fifteen dollars ($15) per year, for a filing in writing, including facsimile; and

(2) ten dollars ($10) per year, for a filing by electronic ~~medium;~~ **means;**

to be paid biennially.

(c) The secretary of state shall collect a fee of ten dollars ($10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(1) Per page for copying $ 1

(2) For a certification stamp $15

~~(e) If document described in subsection (a)(1) or (a)(20) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars ($75).~~

SECTION 50. IC 23-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter:

(1) a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business;

(2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;

(3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;

(4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;

(5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(8) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; and

(9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file for record, in the office of the recorder of each county in which a place of business or an office of the person, limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation is situated, a certificate stating the assumed name or names to be used, and, in the case of a person, the full name and address of the person engaged in or transacting business, or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's, limited liability company's, or limited partnership's principal office in Indiana.

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons, the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations having such certificates on file in the recorder's office, and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person, limited liability company, partnership, or corporation to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county

funds the same as other money received by the recorders.

(e) A corporation, limited liability company, or limited partnership subject to this chapter shall, in addition to filing the certificate provided for in subsection (a), file with the secretary of state a copy of each certificate.

(f) A person, partnership, limited liability company, or corporation that has filed a certificate of assumed business name or names under subsection (a) or (e) may file a notice of discontinuance of use of assumed business name or names with the secretary of state and with the recorder's office in which the certificate was filed or transferred. The secretary of state and the recorder shall keep a record of notices filed under this subsection.

(g) A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate required under subsection (a) in the office of the recorder of the county where the corporation's or limited partnership's registered office is located. The certificate must state the assumed name or names to be used, the name of the registered agent, and the address of the registered office. The corporation or limited partnership must comply with the requirements in subsection (e).

(h) The secretary of state shall collect the following fees when a copy of a certificate is filed with the secretary of state under subsection (e):

(1) A fee of:

(A) twenty dollars ($20) for an electronic filing; or

(B) thirty dollars ($30) **for a filing other than an electronic filing;**

from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.

(2) A fee of:

(A) ten dollars ($10) for an electronic filing; or

(B) twenty-six dollars ($26) **for a filing other than an electronic filing;**

from a nonprofit corporation.

The secretary of state shall prescribe the electronic means of filing certificates for purposes of collecting fees under this subsection. A fee collected under this subsection is in addition to any other fee

collected by the secretary of state.

SECTION 51. IC 23-16-12-4, AS AMENDED BY P.L.60-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) ~~Except as provided in subsection (d),~~ The secretary of state shall collect the following fees when the documents described in this section are delivered by a domestic or foreign limited partnership to the secretary of state for filing:

Document	**Electronic Filing** Fee	**Filing Fee (Other than electronic filing)**
(1) Application for reservation of name	**$10**	$20
(2) Application for use of indistinguishable name	**$10**	$20
(3) Application for renewal of reservation	**$10**	$20
(4) Notice of transfer of reserved name	**$10**	$20
(5) Application of registered name	**$20**	$30
(6) Application for renewal of registered name	**$20**	$30
(7) Certificate of change of registered agent's business address	No fee	**No fee**
(8) Certificate of resignation of agent	No fee	**No fee**
(9) Certificate of limited partnership	**$75**	$90
(10) Certificate of amendment	**$20**	$30
(11) Certificate of cancellation	**$75**	$90
(12) Restated certificate of limited partnership or registration	**$20**	$30
(13) Restated certificate of limited partnership or registration with amendments	**$20**	$30
(14) Application for registration	**$75**	$90
(15) Certificate of change of application	**$20**	$30
(16) Certificate of cancellation of registration	**$20**	$30

(17) Certificate of change of registered agent	No fee	**No fee**
(18) Application for certificate of existence or authorization	$15	**$15**
(19) Any other document required or permitted to be filed under this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without additional fee in connection with particular filings)	**$20**	$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The secretary of state shall collect a fee of ten dollars ($10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited partnership:

(1) Per page for copying	$ 1
(2) For a certification stamp	$15

~~(d) If the document described in subsection (a)(9) or (a)(14) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars ($75).~~

SECTION 52. IC 23-17-29-3, AS AMENDED BY P.L.60-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (d),~~ The secretary of state shall collect the following fees when the following documents are delivered for filing:

Document	**Electronic Filing** Fee	**Filing Fee (Other than electronic**

			filing)
(1)	Articles of Incorporation	**$20**	$30
(2)	Application for use of indistinguishable name	**$10**	$20
(3)	Application for reserved name	**$10**	$20
(4)	Notice of transfer of reserved name	**$10**	$20
(5)	Application for renewal of reservation	**$10**	$20
(6)	Application for registered name	**$20**	$30
(7)	Application for renewal of registered name	**$20**	$30
(8)	Corporation's statement of change of registered agent or registered office or both	no fee	**no fee**
(9)	Agent's statement of change of registered office for each affected corporation	no fee	**no fee**
(10)	Agent's statement of resignation	no fee	**no fee**
(11)	Amendment of articles of incorporation	**$20**	$30
(12)	Restatement of articles of incorporation with amendments	**$20**	$30
(13)	Articles of merger	**$20**	$30
(14)	Articles of dissolution	**$20**	$30
(15)	Articles of revocation of dissolution	**$20**	$30
(16)	Certificate of administrative dissolution	no fee	**no fee**
(17)	Application for reinstatement following administrative dissolution	**$20**	$30
(18)	Certificate of reinstatement	no fee	**no fee**
(19)	Certificate of judicial dissolution	no fee	**no fee**
(20)	Application for certificate of authority	**$20**	$30
(21)	Application for amended		

	certificate of authority	**$20**	$30
(22)	Application for certificate of withdrawal	**$20**	$30
(23)	Certificate of revocation of authority to transact business	no fee	**no fee**
(24)	Annual report ~~filed in writing, including a facsimile~~	**$5**	$10
~~(25)~~	~~Annual report filed by electronic medium~~	~~$ 5~~	
~~(26)~~ **(25)**	Certificate of existence	$15	**$15**
~~(27)~~ **(26)**	Any other document required or permitted to be filed by this article	**$20**	$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The secretary of state shall collect a fee of ten dollars ($10) upon being served with process under this article. The party to a proceeding causing service of process may recover the fee paid the secretary of state as costs if the party prevails in the proceeding.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar ($1) a page for copying.

(2) Fifteen dollars ($15) for the certification stamp.

~~(d) If the document described in subsection (a)(1) or (a)(20) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of twenty dollars ($20).~~

SECTION 53. IC 23-18-12-3, AS AMENDED BY P.L.60-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (c),~~ The secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

Document	**Electronic Filing** Fee	**Filing Fee (Other than electronic filing)**
(1) Articles of organization	**$75**	$90

(2) Application for use of indistinguishable name	**$10**	$20
(3) Application for reservation of name	**$10**	$20
(4) Application for renewal of reservation	**$10**	$20
(5) Notice of transfer or cancellation of reservation	**$10**	$20
(6) Application of registered name	**$20**	$30
(7) Application for renewal of registered name	**$20**	$30
(8) Certificate of change of registered agent's business address	No Fee	**No Fee**
(9) Certificate of resignation of agent	No Fee	**No Fee**
(10) Articles of amendment	**$20**	$30
(11) Restatement of articles of organization	**$20**	$30
(12) Articles of dissolution	**$20**	$30
(13) Application for certificate of authority	**$75**	$90
(14) Application for amended certificate of authority	**$20**	$30
(15) Application for certificate of withdrawal	**$20**	$30
(16) Application for reinstatement following administrative dissolution	**$20**	$30
(17) Articles of correction	**$20**	$30
(18) Certificate of change of registered agent	No Fee	**No Fee**
(19) Application for certificate of existence or authorization	**$15**	$15
(20) Biennial report ~~filed in writing, including by facsimile~~	**$20**	$30
~~(21) Biennial report filed by electronic medium~~	~~$20~~	
~~(22)~~ **(21)** Articles of merger involving a domestic limited		

liability company	**$75**	$90
~~(23)~~ **(22)** Any other document required or permitted to be filed under this article	**$20**	$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The fee set forth in subsection (a)(20) for filing a biennial report is:

(1) for an electronic filing, ten dollars ($10) per year; or

(2) for a filing other than an electronic filing, fifteen dollars ($15) per year;

to be paid biennially.

(c) The secretary of state shall collect a fee of $10 each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(1) One dollar ($1) per page for copying.

(2) Fifteen dollars ($15) for certification stamp.

~~(e) If the document described in subsection (a)(1) or (a)(13) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars ($75).~~

SECTION 54. [EFFECTIVE JULY 1, 2008] **The rules adopted by the bureau of motor vehicles before July 1, 2008, concerning:**

(1) IC 9-18-26; and

(2) IC 9-22-4;

are considered, after June 30, 2008, rules of the secretary of state.

SECTION 55. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 9-29-8-7, as amended by this act, the budget agency shall transfer from the motor vehicle highway account to an account or fund identified by the bureau of motor vehicles and approved by the budget agency an amount necessary to hold the account or fund harmless for money the account or fund would have received under IC 9-29-8-7, before its amendment by this act.**

(b) A transfer under this SECTION is subject to review by the budget committee.

(c) This SECTION expires July 1, 2009.

SECTION 56. [EFFECTIVE JULY 1, 2008] **(a) The legislative services agency shall prepare legislation for introduction in the 2009 regular session of the general assembly to organize and correct statutes affected by this act.**

(b) This SECTION expires January 1, 2011.

P.L.107-2008

[S.339. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.186-2007, SECTION 3, AS AMENDED BY P.L.192-2007, SECTION 1, AND AS AMENDED BY P.L.216-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex *or violent* offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.

~~*(13)*~~ **(14)** *Develop and manage the gang crime witness protection program established by section 21 of this chapter.*

~~*(14)*~~ **(15)** *Identify grants and other funds that can be used to fund the gang crime witness protection program.*

(16) After December 31, 2008, administer the licensing of:

(A) commercial driver training schools; and

(B) instructors at commercial driver training schools.

SECTION 2. IC 5-2-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]

Chapter 6.5. Commercial Driver Training Schools

Sec. 1. This chapter applies after December 31, 2008.

Sec. 2. This chapter does not apply to the following:

(1) An individual giving driver training lessons without charge.

(2) Employers maintaining driver training schools without charge, for employees of the employer only.

(3) Schools or classes conducted by colleges, universities, and high schools for regularly enrolled students.

Sec. 3. As used in this chapter, "bureau" refers to the bureau of motor vehicles created by IC 9-14-1-1.

Sec. 4. As used in this chapter, "college" means:

(1) an accredited college;

(2) a technical college;

(3) a university; or

(4) a junior college.

Sec. 5. (a) As used in this chapter, "commercial driver training school" means a business enterprise that:

(1) is conducted by an individual, an association, a partnership, a limited liability company, or a corporation for the education and training of persons, practically or theoretically, or both, to operate or drive motor vehicles or to prepare an applicant for an examination or validation given by the bureau under IC 9-24 for a driver's license; and

(2) charges consideration or tuition for the provision of services.

(b) The term does not include a business enterprise that educates or trains a person or prepares a person for an examination or a validation given by the bureau to operate or drive a motor vehicle as a vocation.

Sec. 6. As used in this chapter, "driver's license" has the meaning set forth in IC 9-13-2-48.

Sec. 7. As used in this chapter, "institute" refers to the Indiana criminal justice institute established by IC 5-2-6-3.

Sec. 8. As used in this chapter, "instructor" means the following:

(1) An individual, whether acting as the operator of a commercial driver training school or on behalf of a commercial driver training school, who for compensation teaches, conducts classes of, gives demonstrations to, or supervises the practice of individuals learning to operate or drive motor vehicles or preparing to take an examination for a driver's license.

(2) An individual who supervises the work of an instructor.

Sec. 9. (a) To establish or operate a commercial driver training school, the commercial driver training school must obtain a

commercial driver training school license from the institute in the manner and form prescribed by the institute.

(b) Subject to subsections (c) and (d), the institute shall adopt rules under IC 4-22-2 that state the requirements for obtaining a commercial driver training school license, including the following:

(1) Location of the commercial driver training school.

(2) Equipment required.

(3) Courses of instruction.

(4) Instructors.

(5) Previous records of the commercial driver training school and instructors.

(6) Financial statements.

(7) Schedule of fees and charges.

(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the institute considers necessary to adequately protect the interests of the public.

(10) Other matters the institute prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed commercial driver training school to provide classroom training during which an instructor is present in a county outside the county where the commercial driver training school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-19-2-8;

(3) a nonpublic secondary school recognized under IC 20-19-2-10;

(4) a state educational institution; or

(5) a nonaccredited nonpublic school.

However, the rules must provide that a licensed commercial driver training school may provide classroom training in an entity listed in subdivisions (1) through (3) only if the governing body of the entity approves the delivery of the training to its students.

(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state

board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving.

Sec. 10. (a) To be eligible for an instructor's license under subsection (d), an individual must complete at least sixty (60) semester hours at a postsecondary educational institution. The individual must:

(1) complete at least nine (9) semester hours in driver education courses; and

(2) be at least twenty-one (21) years of age upon completion of the driver education courses required by subdivision (1).

(b) The driver education courses required under subsection (a)(1) must include a combination of theoretical and behind-the-wheel instruction that is consistent with nationally accepted standards in traffic safety.

(c) The driver education semester hours completed under subsection (a)(1) do not satisfy the requirements of subsection (d) unless the driver education curriculum is approved by the commission for higher education.

(d) The institute shall issue an instructor's license to an individual:

(1) who:

(A) meets the requirements of subsection (a);

(B) does not have more than the maximum number of points for violating traffic laws specified by the bureau by rules adopted under IC 4-22-2; and

(C) has a good moral character, physical condition, knowledge of the rules of the road, and work history; or

(2) who holds a driver and traffic safety education endorsement issued by the department of education established by IC 20-19-3-1 and meets the requirements of subdivision (1)(B) and (1)(C).

The institute shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of subdivision (1)(C). Only an individual who holds an instructor's license issued by the institute under this subsection may act as an instructor.

Sec. 11. (a) A license issued under section 9 or 10 of this chapter expires on the last day of the fiscal year and may be renewed upon

application to the institute as prescribed by rule.

(b) Each application for an original or a renewal license must be accompanied by a:

(1) certified check;

(2) corporate check; or

(3) United States postal money order.

(c) The fee for:

(1) an original or a renewal commercial driver training school license is one hundred dollars ($100); and

(2) an original or a renewal instructor's license is ten dollars ($10).

(d) A license fee may not be refunded if the license application is rejected or the license is suspended or revoked.

(e) A license fee collected under this section shall be deposited in the motor vehicle highway account fund established under IC 8-14-1.

Sec. 12. (a) The institute shall adopt rules under IC 4-22-2 that are necessary to administer and enforce this chapter and to protect the public.

(b) The institute shall do the following:

(1) Inspect the following:

(A) Commercial driver training school facilities.

(B) Equipment of applicants for licenses and licensees under this chapter.

(2) Examine applicants for instructor's licenses.

(c) The institute shall administer and enforce this chapter and may request assistance from the state superintendent of public instruction in developing and formulating appropriate rules.

Sec. 13. (a) The institute may:

(1) cancel;

(2) suspend;

(3) revoke;

(4) refuse to issue; or

(5) refuse to renew;

a commercial driver training school license or an instructor's license if the institute finds that a licensee or an applicant has not complied with or has violated this chapter or a rule adopted by the institute under this chapter.

(b) A person who holds a license that has been canceled,

suspended, or revoked under this section shall return the license to the institute.

Sec. 14. The institute, after notice and opportunity for a hearing, may cancel, suspend, revoke, or refuse to renew a license issued under this chapter if it is shown that the person who holds the license:

(1) no longer meets the requirements necessary to obtain the license; or

(2) has willfully violated this chapter or a rule adopted by the institute.

Sec. 15. A person who violates this chapter commits a Class C infraction.

SECTION 3. IC 6-6-5-9, AS AMENDED BY P.L.184-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The bureau, in the administration and collection of the annual license excise tax imposed by this chapter, may utilize the services and facilities of license branches operated under IC 9-16 in its administration of the motor vehicle registration laws of the state of Indiana. The license branches may be so utilized in accordance with such procedures, in such manner, and to such extent as the bureau shall deem necessary and proper to implement and effectuate the administration and collection of the excise tax imposed by this chapter. However, in the event the bureau shall utilize such license branches in the collection of excise tax, the following apply:

(1) The excise taxes so collected by each license branch, less any refunds made by the license branch, shall be deposited daily by the license branch ~~in a separate account~~ in a depository duly designated by the state board of finance. The county treasurer of the county for which the collections are due may withdraw funds from the account at least two (2) times each week. The county treasurer is responsible for the safekeeping and investment of money withdrawn by the county treasurer under this subsection. Before the eleventh day of the month following the month in which the collections are made, the bureau of motor vehicles shall report the excise taxes collected and refunds made outside the county to the county treasurer of the county to which the collections are due and the refunds apply. The bureau shall forward a copy of this excise tax report to the county auditor of

the county.

(2) A license branch shall each week forward a report to the county auditor of the county to whom the collections are due, showing the excise tax collected on each vehicle, each refund on a vehicle, and a copy of each registration certificate for all collections and refunds within the county.

(3) Each license branch shall also report to the bureau all excise taxes collected and refunds made under this chapter in the same manner and at the same time as registration fees are reported.

(4) Premiums for insurance to protect the funds collected by license branches against theft shall be paid by the bureau, except that the bureau may issue blanket coverage for all branches at its discretion. At the discretion of the bureau, the bureau may:

(A) self-insure to cover the activities of the license branches; or

(B) rather than purchase a bond or crime policy for each branch, purchase a single blanket bond or crime insurance policy endorsed to include faithful performance to cover all branches.

(5) If the services of a license branch are used by the bureau in the collection of the excise tax imposed by this chapter, the license branch shall collect the service charge prescribed under IC 9-29 for each vehicle registered upon which an excise tax is collected by that branch.

(6) If the excise tax imposed by this chapter is collected by the department of state revenue, the money collected shall be deposited in the state general fund to the credit of the appropriate county and reported to the bureau of motor vehicles on the first working day following the week of collection. Except as provided in subdivision (7), any amount collected by the department which represents interest or a penalty shall be retained by the department and used to pay its costs of enforcing this chapter.

(7) This subdivision applies only to interest or a penalty collected by the department of state revenue from a person who:

(A) fails to properly register a vehicle as required by IC 9-18 and pay the tax due under this chapter; and

(B) during any time after the date by which the vehicle was required to be registered under IC 9-18 displays on the vehicle

a license plate issued by another state.

The total amount collected by the department that represents interest or a penalty, minus a reasonable amount determined by the department to represent its administrative expenses, shall be deposited in the state general fund for the credit of the county in which the person resides. The amount shall be reported to the bureau of motor vehicles on the first working day following the week of collection.

The bureau may contract with a bank card or credit card vendor for acceptance of bank or credit cards.

(b) On or before April 1 of each year the bureau shall provide to the auditor of state the amount of motor vehicle excise taxes collected for each county for the preceding year.

(c) On or before May 10 and November 10 of each year the auditor of state shall distribute to each county one-half (1/2) of:

(1) the amount of delinquent taxes; and

(2) any penalty or interest described in subsection (a)(7);

that have been credited to the county under subsection (a). There is appropriated from the state general fund the amount necessary to make the distributions required by this subsection. The county auditor shall apportion and distribute the delinquent tax distributions to the taxing units in the county at the same time and in the same manner as excise taxes are apportioned and distributed under section 10 of this chapter.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

SECTION 4. IC 9-13-2-27.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27.5. **This section expires January 1, 2009.** "College", for purposes of IC 9-27-4, has the meaning set forth in IC 9-27-4-1.5.

SECTION 5. IC 9-13-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. **(a) This subsection expires January 1, 2009.** "Commercial driver training school", for purposes of IC 9-24-10-4 and IC 9-27-4, has the meaning set forth in IC 9-27-4-2.

(b) This subsection applies after December 31, 2008. "Commercial driver training school", for purposes of IC 9-24-10-4, has the meaning set forth in IC 5-2-6.5-5.

SECTION 6. IC 9-13-2-42, AS AMENDED BY P.L.41-2006,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana. **The term includes a person who sells off-road vehicles.** A dealer must have an established place of business that meets the minimum standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

(3) A person who is a dealer solely because of activities as a transfer dealer.

~~(4) A person who sells off-road vehicles.~~

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft;

per year.

SECTION 7. IC 9-13-2-80 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 80. **This section expires January 1, 2009.** "Instructor" (of commercial driver training school), for purposes of IC 9-27-4, has the meaning set forth in IC 9-27-4-3.

SECTION 8. IC 9-13-2-150.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 150.5. "Registered importer" has the meaning set forth in IC 9-17-2-0.5.**

SECTION 9. IC 9-17-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "registered importer" means a person that is:**

(1) registered as an importer with the National Highway

Traffic Safety Administration;

(2) a licensed dealer currently in good standing with the state; and

(3) a validated member of the United States Department of Homeland Security's Customs-Trade Partnership Against Terrorism (C-TPAT) administered by the United States Customs and Border Protection.

SECTION 10. IC 9-17-2-12 AS AMENDED BY SEA 307-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and

(2) sold not less than one hundred fifty (150) motor vehicles during the preceding calendar year.

(b) This section does not apply to the following:

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(4) A motor vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if:

(A) the registered importer complies with section 12.5(a) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(5) A motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company, if:

(A) the financial institution, lending institution, or insurance company complies with section 12.5(b) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the

motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the secretary of state to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 11. IC 9-17-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in the name of a financial institution, a lending institution, or an insurance company in Canada and imported by a registered importer without requiring an inspection under section 12(c) of this chapter if the registered importer presents the bureau with the following documentation relating to the motor vehicle:**

(1) A copy of the registered importer's validation agreement issued by the United States Customs and Border Protection (CBP).

(2) A copy of the entry summary issued by the United States Customs and Border Protection (CBP Form 7501).

(3) A vehicle history report issued by an independent provider of vehicle history information that includes:

(A) the vehicle's title information;

(B) the vehicle's odometer readings; and

(C) the number of owners of the vehicle.

(b) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company if the financial institution, lending institution, or insurance company presents to the bureau a vehicle history report issued by an

independent provider of vehicle history information that includes:

(1) the motor vehicle's title information;

(2) the motor vehicle's odometer readings; and

(3) the number of owners of the motor vehicle.

(c) A:

(1) registered importer; or

(2) financial institution, a lending institution, or an insurance company;

must maintain a copy of all documentation required by this section for at least ten (10) years.

(d) An inspection of a motor vehicle described in subsection (a) or (b) is required under section 12(c) of this chapter if:

(1) the registered importer; or

(2) the financial institution, lending institution, or insurance company;

is unable to provide the bureau with the documentation required by this section.

SECTION 12. IC 9-18-2-8, AS AMENDED BY P.L.79-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The bureau shall ~~register vehicles under~~ **determine** the schedule ~~in this section.~~ **for registration for the following categories of vehicles:**

(1) Passenger motor vehicles.

(2) Recreational vehicles.

(3) Motorcycles.

(4) Trucks that:

(A) are regularly rented to others for not more than twenty-nine (29) days in the regular course of the corporation's business; and

(B) have a declared gross weight of not more than eleven thousand (11,000) pounds.

(b) Except as provided in IC 9-18-12-2.5, a person ~~who~~ **that** owns a vehicle shall receive a license plate, renewal tag, or other indicia upon registration of the vehicle. The bureau may determine the device required to be displayed.

~~(c) A corporation shall register, before February 1 of each year, the following vehicles that are owned by the corporation:~~

~~(1) A passenger motor vehicle that is not regularly rented to~~

~~others for not more than twenty-nine (29) days in the regular course of the corporation's business.~~

~~(2) A recreational vehicle.~~

~~(3) A motorcycle.~~

~~(4) A truck that:~~

~~(A) is not regularly rented to others for not more than twenty-nine (29) days in the regular course of the corporation's business; and~~

~~(B) has a declared gross weight of not more than eleven thousand (11,000) pounds.~~

~~(d)~~ **(c)** A corporation that owns a

~~(1) passenger motor vehicle; or~~

~~(2)~~ truck that has a declared gross weight of not more than eleven thousand (11,000) pounds

that is regularly rented to others for periods of not more than twenty-nine (29) days in the regular course of the corporation's business must register the ~~passenger motor vehicle or~~ truck before March 1 of each year.

~~(e) For registrations for 2005, a person who owns a:~~

~~(1) passenger motor vehicle;~~

~~(2) recreational vehicle;~~

~~(3) motorcycle; or~~

~~(4) truck that has a declared gross weight of not more than eleven thousand (11,000) pounds;~~

~~that is not subject to the registration requirements under subsection (d) shall register the passenger motor vehicle, recreational vehicle, motorcycle, or truck in conformance with the schedule set forth in subsection (f) or (g).~~

~~(f) After December 31, 2005, a person who owns a vehicle subject to registration under this subsection shall register the vehicle in accordance with subsection (g). The following schedule applies to persons who own vehicles that are required to be registered under subsection (e):~~

~~(1) Persons whose last names begin with the letters A through BE shall register before February 16 of each year.~~

~~(2) Persons whose last names begin with the letters BF through BZ shall register before March 1 of each year.~~

~~(3) Persons whose last names begin with the letter C shall register~~

~~before March 16 of each year.~~

~~(4) Persons whose last names begin with the letter D shall register before April 1 of each year.~~

~~(5) Persons whose last names begin with the letters E through F shall register before April 16 of each year.~~

~~(6) Persons whose last names begin with the letter G shall register before May 1 of each year.~~

~~(7) Persons whose last names begin with the letters HA through HN shall register before May 16 of each year.~~

~~(8) Persons whose last names begin with the letters HO through I shall register before June 1 of each year.~~

~~(9) Persons whose last names begin with the letters J through KM shall register before June 16 of each year.~~

~~(10) Persons whose last names begin with the letters KN through L shall register before July 1 of each year.~~

~~(11) Persons whose last names begin with the letters MA through ME shall register before July 16 of each year.~~

~~(12) Persons whose last names begin with the letters MF through O shall register before August 1 of each year.~~

~~(13) Persons whose last names begin with the letters P through Q shall register before August 16 of each year.~~

~~(14) Persons whose last names begin with the letter R shall register before September 1 of each year.~~

~~(15) Persons whose last names begin with the letters SA through SN shall register before September 16 of each year.~~

~~(16) Persons whose last names begin with the letters SO through T shall register before October 1 of each year.~~

~~(17) Persons whose last names begin with the letters U through WK shall register before October 16 of each year.~~

~~(18) Persons whose last names begin with the letters WL through Z shall register before November 1 of each year.~~

~~(g) The bureau shall determine the schedule for registration for the categories of vehicles set forth in subsection (c) for registrations required after December 31, 2005.~~

~~(h)~~ **(d)** A person ~~who~~ **that** owns a vehicle in a category required to be registered under ~~subsection (c), (d), or (e),~~ **this section** and ~~who~~ desires to register the vehicle for the first time must apply to the bureau for a registration application form. The bureau shall do the following:

(1) Administer the registration application form.

(2) Issue the license plate.

(3) Collect the proper registration and service fees in accordance with the procedure established by the bureau.

~~(f)~~ **(e)** Except as provided in IC 9-18-12-2.5, the bureau shall issue a semipermanent plate under section 30 of this chapter, or:

(1) an annual renewal tag; or

(2) other indicia;

to be affixed on the semipermanent plate.

SECTION 13. IC 9-23-2-7, AS AMENDED BY P.L.184-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b) through (g), the secretary of state shall issue an offsite sales license to a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary of state may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not apply to:

(1) new manufactured housing dealers;

(2) recreational vehicle dealers; ~~or~~

(3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates; **or**

(4) off-road vehicle dealers.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary of state may not issue an offsite sales

license to a licensed dealer if the dealer does not have authorization that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may only be obtained from the following:

(1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.

(2) If the offsite sale would be located outside the corporate boundaries of a city or town:

(A) except as provided in clause (B), the executive of the county; or

(B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary of state may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the current license application is being submitted.

(h) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 14. IC 9-27-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. This chapter expires January 1, 2009.**

SECTION 15. IC 9-29-5-42, AS AMENDED BY P.L.31-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) Except as provided in subsection (c), vehicles not subject to IC 9-18-2-8 or IC 9-18-2-8.5 shall be registered at one-half (1/2) of the regular rate, subject to IC 9-18-2-7, if the vehicle is registered after July 31 of any year. This subsection does not apply to the following:

(1) Special machinery.

(2) Semitrailers registered on a five (5) year or permanent basis under IC 9-18-10-2.

(3) An implement of agriculture designed to be operated primarily on a highway.

(b) Except as provided in subsection (c), subsection (a) and IC 9-18-2-7 determine the registration fee for the registration of a vehicle subject to registration under IC 9-18-2-8(c) ~~IC 9-18-2-8(d), and IC 9-18-2-8(e)~~ and acquired by an owner subsequent to the date

required for the annual registration of vehicles by an owner set forth in IC 9-18-2-8.

(c) Subject to subsection (d), a vehicle subject to the International Registration Plan that is registered after September 30 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before April 1 of the following year beginning with the date of registration. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(d) If the department of state revenue adopts rules under IC 9-18-2-7 to implement staggered registration for motor vehicles subject to the International Registration Plan, a motor vehicle subject to the International Registration Plan that is registered after the date designated for registration of the motor vehicle in rules adopted under IC 9-18-2-7 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before the motor vehicle must be re-registered. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(e) A school bus subject to registration under IC 9-18-2-8.5 that is registered after January 31 for the prior calendar year shall be registered at one-half (½) the regular rate.

SECTION 16. IC 9-29-12-1, AS AMENDED BY P.L.156-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **This section expires January 1, 2009.** Each application for an original or a renewal school license fee under IC 9-27-4-6 must be accompanied by a:

(1) certified check;

(2) corporate check; or

(3) United States postal money order;

in the amount of one hundred dollars ($100).

SECTION 17. IC 9-29-12-2, AS AMENDED BY P.L.156-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **This section expires January 1, 2009.** Each application for an original or a renewal instructor's license under IC 9-27-4-6 must be accompanied by a:

(1) certified check;

(2) corporate check; or

(3) United States postal money order;

in the amount of ten dollars ($10).

SECTION 18. [EFFECTIVE JANUARY 1, 2009] **The rules adopted under IC 4-22-2 by the bureau of motor vehicles before January 1, 2009, concerning commercial driver training schools and instructors of commercial driver training schools are considered, on and after January 1, 2009, rules of the Indiana criminal justice institute.**

SECTION 19. [EFFECTIVE JULY 1, 2008] **(a) For the period beginning January 1, 2009, and ending June 30, 2009, there is transferred to the Indiana criminal justice institute from money appropriated to the bureau of motor vehicles an amount that is necessary to give full effect to the transfer of responsibilities concerning the licensing of commercial driver training schools and instructors from the bureau of motor vehicles to the Indiana criminal justice institute under this act.**

(b) The source and amount of money transferred under subsection (a) shall be:

(1) determined jointly by the bureau of motor vehicles and the Indiana criminal justice institute; and

(2) memorialized not later than January 1, 2009, in a writing that is subject to approval by the budget agency.

SECTION 20. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 9-13-2-42, as amended by this act, a person who engages in the business of selling at least twelve (12) off-road vehicles to the general public each year for delivery in Indiana whose business name begins with the letters A through L, inclusive, is not required to apply for a dealer's license under IC 9-23-2 with the bureau of motor vehicles until the month in 2009 required by IC 9-23-2-8.**

(b) This SECTION expires December 31, 2009.

SECTION 21. IC 9-23-0.5-1 IS REPEALED [EFFECTIVE JULY

1, 2008].

SECTION 22. **An emergency is declared for this act.**

P.L.108-2008

[H.1071. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-2-49.9, AS ADDED BY P.L.164-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 49.9. (a) "Vote center" means a polling place where a voter who resides in the county in which the vote center is located may vote without regard to the precinct in which the voter resides.

(b) This section expires December 31, ~~2009.~~ **2010.**

SECTION 2. IC 3-11-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To receive reimbursement for the purchase of voting systems under this chapter, a county must file an application with the election division, in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(b) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if the budget agency determines ~~either~~ **any** of the following:

(1) The county has purchased or will purchase a new voting

system or an upgrade or expansion of an existing voting system to comply with HAVA that would be eligible for reimbursement under HAVA and this chapter from any fund account.

(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, that would not qualify for reimbursement from federal funds received under HAVA, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:

(A) Reliability of the county's voting system.

(B) Efficiency of the county's voting system.

(C) Ease of use of the county's voting system by voters.

(D) Public confidence in the county's voting system.

(3) The county has purchased or will purchase a new voting system to replace a voting system that the county cannot use because the county is unable to obtain technical or other operating support for its current voting system. This subdivision applies only if the purchase of a new voting system is eligible for reimbursement under HAVA.

SECTION 3. IC 3-11-18-20, AS ADDED BY P.L.164-2006, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. This chapter expires December 31, ~~2009.~~ **2010.**

SECTION 4. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) The secretary of state may designate one (1) county as a vote center pilot county under IC 3-11-18, as amended by this act.

(c) A county must file with the secretary of state an application to be designated a vote center pilot county under IC 3-11-18, as amended by this act, not later than March 17, 2008.

(d) The secretary of state shall act in accordance with IC 3-11-18, as amended by this act, and this SECTION to designate a county as a vote center pilot county not later than April 1, 2008.

(e) The designation of a county as a vote center pilot county under this SECTION is effective June 1, 2008.

(f) A county designated as a vote center pilot county under:

(1) P.L.164-2006, SECTION 148 (before its expiration); or

(2) this SECTION;

is automatically redesignated as a vote center pilot county under IC 3-11-18, as amended by this act, on July 1, 2008.

(g) This SECTION expires December 31, 2010.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "HAVA money" refers to money received by the state under the Help America Vote Act of 2002 (42 U.S.C. 15301 through 42 U.S.C. 15545).**

(b) The definitions in IC 3-5-2 apply throughout this SECTION.

(c) HAVA money received after December 31, 2007, shall be allocated to reimburse the following counties for the purchase of new voting systems:

(1) Boone County.

(2) Cass County.

(3) Parke County.

(4) Randolph County.

(d) The secretary of state, as the state's chief election official under IC 3-6-3.7-1, shall petition the federal Election Assistance Commission for authority to use HAVA money to reimburse counties as provided in subsection (c). In addition to other arguments that the secretary of state may make in the petition, the secretary of state shall inform the Election Assistance Commission that the general assembly considers the circumstances of the counties described in subsection (c) as different from other jurisdictions that have requested to use HAVA money to purchase new voting systems to replace voting systems purchased from HAVA money. Other states have sought to replace functioning voting systems that the state has chosen to abandon for public policy reasons. The state of Indiana is petitioning to use HAVA money to replace voting systems that cannot be used because of the lack of technical and other operating support for the voting systems due to the dissolution of the companies that sold the voting systems.

(e) This SECTION expires July 1, 2013.

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) There is appropriated to the election administration assistance fund one hundred twenty-five thousand two hundred dollars ($125,200) from the state general fund to match any money granted to the state by the federal government after December 31, 2007, under**

the Help America Vote Act of 2002 (42 U.S.C. 15301 through 42 U.S.C. 15545), beginning July 1, 2008, and ending June 30, 2010.

(b) This SECTION expires July 1, 2010.

SECTION 7. **An emergency is declared for this act.**

P.L.109-2008

[H.1140. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-8-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under a state employee health plan.**

(b) As used in this section, "orthotic device" means a medically necessary custom fabricated brace or support that is designed as a component of a prosthetic device.

(c) As used in this section, "prosthetic device" means an artificial leg or arm.

(d) As used in this section, "state employee health plan" means a:

(1) self-insurance program established under section 7(b) of this chapter; or

(2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter;

to provide group health coverage. The term does not include a dental or vision plan.

(e) A state employee health plan must provide coverage for orthotic devices and prosthetic devices, including repairs or replacements, that:

(1) are provided or performed by a person that is:

(A) accredited as required under 42 U.S.C. 1395m(a)(20); or

(B) a qualified practitioner (as defined in 42 U.S.C. 1395m(h)(1)(F)(iii));

(2) are determined by the covered individual's physician to be medically necessary to restore or maintain the covered individual's ability to perform activities of daily living or essential job related activities; and

(3) are not solely for comfort or convenience.

(f) The:

(1) coverage required under subsection (e) must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare program (42 U.S.C. 1395 et seq.); and

(2) reimbursement under the coverage required under subsection (e) must be equal to the reimbursement that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless a different reimbursement rate is negotiated.

This subsection does not require a deductible under a state employee health plan to be equal to a deductible under the federal Medicare program.

(g) Except as provided in subsections (h) and (i), the coverage required under subsection (e):

(1) may be subject to; and

(2) may not be more restrictive than;

the provisions that apply to other benefits under the state employee health plan.

(h) The coverage required under subsection (e) may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit.

(i) Any lifetime maximum coverage limitation that applies to prosthetic devices and orthotic devices:

(1) must not be included in; and

(2) must be equal to;

the lifetime maximum coverage limitation that applies to all other items and services generally under the state employee health plan.

(j) For purposes of this subsection, "items and services" does not include preventive services for which coverage is provided

under a high deductible health plan (as defined in 26 U.S.C. 220(c)(2) or 26 U.S.C. 223(c)(2)). The coverage required under subsection (e) may not be subject to a deductible, copayment, or coinsurance provision that is less favorable to a covered individual than the deductible, copayment, or coinsurance provisions that apply to other items and services generally under the state employee health plan.

SECTION 2. IC 27-8-24.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 24.2. Coverage for Prosthetic Devices

Sec. 1. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

Sec. 2. As used in this chapter, "orthotic device" means a medically necessary custom fabricated brace or support that is designed as a component of a prosthetic device.

Sec. 3. (a) As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy.

(5) A limited benefit health insurance policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 4. As used in this chapter, "prosthetic device" means an artificial leg or arm.

Sec. 5. A policy of accident and sickness insurance must provide coverage for orthotic devices and prosthetic devices, including repairs or replacements, that:

(1) are provided or performed by a person that is:

(A) accredited as required under 42 U.S.C. 1395m(a)(20); or

(B) a qualified practitioner (as defined in 42 U.S.C. 1395m(h)(1)(F)(iii));

(2) are determined by the insured's physician to be medically necessary to restore or maintain the insured's ability to perform activities of daily living or essential job related activities; and

(3) are not solely for comfort or convenience.

Sec. 6. The:

(1) coverage required under section 5 of this chapter must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare program (42 U.S.C. 1395 et seq.); and

(2) reimbursement under the coverage required under section 5 of this chapter must be equal to the reimbursement that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless a different reimbursement rate is negotiated.

This section does not require a deductible under a policy of accident and sickness insurance to be equal to a deductible under the federal Medicare program.

Sec. 7. Except as provided in sections 8 and 9 of this chapter, the coverage required under section 5 of this chapter:

(1) may be subject to; and

(2) may not be more restrictive than;

the provisions that apply to other benefits under the policy of accident and sickness insurance.

Sec. 8. The coverage required under section 5 of this chapter may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit.

Sec. 9. Any lifetime maximum coverage limitation that applies to prosthetic devices and orthotic devices:

(1) must not be included in; and

(2) must be equal to;

the lifetime maximum coverage limitation that applies to all other items and services generally under the policy of accident and sickness insurance.

Sec. 10. For purposes of this section, "items and services" does not include preventive services for which coverage is provided under a high deductible health plan (as defined in 26 U.S.C. 220(c)(2) or 26 U.S.C. 223(c)(2)). The coverage required under section 5 of this chapter may not be subject to a deductible, copayment, or coinsurance provision that is less favorable to an insured than the deductible, copayment, or coinsurance provisions that apply to other items and services generally under the policy of accident and sickness insurance.

SECTION 3. IC 27-13-7-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) As used in this section, "orthotic device" means a medically necessary custom fabricated brace or support that is designed as a component of a prosthetic device.**

(b) As used in this section, "prosthetic device" means an artificial leg or arm.

(c) An individual contract or a group contract that provides coverage for basic health care services must provide coverage for orthotic devices and prosthetic devices, including repairs or replacements, that:

(1) are provided or performed by a person that is:

(A) accredited as required under 42 U.S.C. 1395m(a)(20); or

(B) a qualified practitioner (as defined in 42 U.S.C. 1395m(h)(1)(F)(iii));

(2) are determined by the enrollee's physician to be medically necessary to restore or maintain the enrollee's ability to perform activities of daily living or essential job related activities; and

(3) are not solely for comfort or convenience.

(d) The:

(1) coverage required under subsection (c) must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare program (42 U.S.C. 1395 et seq.); and

(2) reimbursement under the coverage required under subsection (c) must be equal to the reimbursement that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless a

different reimbursement rate is negotiated.

This subsection does not require a deductible under an individual contract or a group contract to be equal to a deductible under the federal Medicare program.

(e) Except as provided in subsections (f) and (g), the coverage required under subsection (c):

(1) may be subject to; and

(2) may not be more restrictive than;

the provisions that apply to other benefits under the individual contract or group contract.

(f) The coverage required under subsection (c) may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit.

(g) Any lifetime maximum coverage limitation that applies to prosthetic devices and orthotic devices:

(1) must not be included in; and

(2) must be equal to;

the lifetime maximum coverage limitation that applies to all other items and services generally under the individual contract or group contract.

(h) For purposes of this subsection, "items and services" does not include preventive services for which coverage is provided under a high deductible health plan (as defined in 26 U.S.C. 220(c)(2) or 26 U.S.C. 223(c)(2)). The coverage required under subsection (c) may not be subject to a deductible, copayment, or coinsurance provision that is less favorable to an enrollee than the deductible, copayment, or coinsurance provisions that apply to other items and services generally under the individual contract or group contract.

SECTION 4. [EFFECTIVE JULY 1, 2008] **(a) IC 5-10-8-14, as added by this act, applies to a state employee health plan that is established, entered into, delivered, amended, or renewed after June 30, 2008.**

(b) IC 27-8-24.2, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2008.

(c) IC 27-13-7-19, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2008.

P.L.110-2008
[H.1187. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-14-3-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.5. As used in this chapter, "electronic record" has the meaning set forth in ~~IC 26-2-8-102(7).~~ **IC 26-2-8-102.**

SECTION 2. IC 9-14-3-0.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.8. As used in this chapter, "electronic signature" has the meaning set forth in ~~IC 26-2-8-102(8).~~ **IC 26-2-8-102.**

SECTION 3. IC 23-17-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. **(a)** "Vote" includes authorization by written ballot, and **"voting" or "casting a vote" includes the giving of** written consent.

(b) Even if a person entitled to vote characterizes the conduct as voting or casting a vote, the term does not include:

(1) recording the fact of abstention or failing to vote for a candidate; or

(2) approving or disapproving of a matter.

SECTION 4. IC 23-17-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A corporation shall give notice ~~consistent with the corporation's bylaws~~ of meetings of members in a fair and reasonable manner.

(b) A notice that conforms to the requirements of subsection (c) is fair and reasonable. However, other means of giving notice may also be fair and reasonable when all the circumstances are considered if notice of matters referred to in subsection (c)(2) is given as provided in subsection (c).

(c) **Unless fair and reasonable notice is otherwise specified in a corporation's bylaws,** notice is fair and reasonable if the following occur:

(1) The corporation notifies the corporation's members of the place, date, and time of each annual, regular, and special meeting of members not less than ten (10) days, or, if notice is mailed by other than first class or registered mail, thirty (30) days to sixty (60) days, before the meeting date.

(2) Notice of an annual or a regular meeting includes a description of any matter or matters to be considered at the meeting that must be approved by the members under ~~IC 23-17-13-2,~~ **IC 23-17-13-2.5,** IC 23-17-16-13, IC 23-17-17-5, IC 23-17-19-4, IC 23-17-20-2, or IC 23-17-22-2.

(3) Notice of a special meeting includes a description of the purpose for which the meeting is called.

(4) A corporation provides notice by:

(A) communicating in person;

(B) mail or other method of delivery; or

(C) other electronic means capable of verification.

~~(4)~~ **(5)** For a corporation, other than a veteran's organization, having more than one thousand (1,000) members, notice of the place, date, and time of an annual, a regular, or a special meeting, and in the case of a special meeting, the purpose of the special meeting, may be given by one (1) publication in a newspaper of general circulation, printed in English, in the county in which the corporation has the corporation's principal office if the publication is made not less than ten (10) days and not more than thirty (30) days before the meeting date.

(d) Unless the bylaws require otherwise, if an annual, a regular, or a special meeting of members is adjourned to a different date, time, or place, notice is not required to be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 7 of this chapter, however, notice of the adjourned meeting must be given under this section to persons who are members as of the new record date.

SECTION 5. IC 23-17-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A director shall,

based on facts then known to the director, discharge duties as a director, including the director's duties as a member of a committee, as follows:

(1) In good faith.

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging the director's duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one (1) of the following:

(1) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, **certified** public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(4) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(c) A director is not acting in good faith if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable for an action taken as a director, or failure to take an action, unless the: ~~following conditions exist:~~

(1) ~~The~~ director has breached or failed to perform the duties of the director's office in compliance with this section; **and**

(2) ~~The~~ breach or failure to perform constitutes willful misconduct or recklessness.

(e) A director is not considered to be a trustee with respect to a corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions

imposed by the donor or transferor of the property.

SECTION 6. IC 23-17-13-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) This section applies unless the articles of incorporation or bylaws of a corporation provide otherwise.**

(b) Subject to subsection (c), a contract or transaction between:

(1) a corporation and one (1) or more of the corporation's members, directors, members of a designated body, or officers; or

(2) a corporation and any other corporation, partnership, association, or entity in which one (1) or more of the corporation's members, directors, officers, or members of a designated body:

(A) are members, directors, members of a designated body, or officers;

(B) hold a similar position; or

(C) have a financial interest;

is not void or voidable solely because of the relationship or interest, solely because the member, director, member of a designated body, or officer is present at or participates in the meeting of the board of directors that authorizes the contract or transaction, or solely because the vote of the member, director, member of a designated body, or officer is counted for authorizing the contract or transaction.

(c) A contract or transaction described under subsection (b) is not void or voidable as provided under subsection (b) if one (1) or more of the following apply:

(1) The:

(A) material facts as to the:

(i) relationship or interest of a member, a director, a member of a designated body, or an officer; and

(ii) contract or transaction;

are disclosed or known to the board of directors; and

(B) board of directors in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even if the disinterested directors are less than a quorum.

(2) The:

(A) material facts as to the:

(i) relationship or interest of the member, director, member of a designated body, or officer; and

(ii) contract or transaction;

are disclosed or known to the members who are entitled to vote on the contract or transaction; and

(B) contract or transaction is specifically approved in good faith by a vote of the members who are entitled to vote on the contract or transaction.

(3) The contract or transaction is fair as to the corporation at the time the contract or transaction is authorized, approved, or ratified by the board of directors or the members.

(d) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board that authorizes a contract or transaction described under subsection (b).

SECTION 7. IC 23-17-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Unless **this article,** the articles of incorporation, or bylaws provide otherwise, a board of directors may create ~~at least~~ one (1) ~~committee and appoint at least two (2)~~ **or more committees that consist of one (1) or more** members of the board of directors. ~~to serve on the committees.~~

(b) **Unless otherwise provided under this article,** the creation of a committee and appointment of members to the committee must be approved by the greater of: ~~the following:~~

(1) a majority of all the directors in office when the action is taken; **or**

(2) the number of directors required by articles of incorporation or bylaws to take action under section 5 of this chapter.

(c) Sections 1 through 5 of this chapter apply to committees of the board of directors and the members of committees.

(d) To the extent specified by the board of directors or in articles of incorporation or bylaws, a committee may exercise the authority of the board of directors under IC 23-17-12-1.

(e) A committee may not do the following:

(1) Authorize distributions.

(2) Approve or recommend to members **action required to be approved by members under this article.**

~~(A) dissolution;~~

~~(B) merger;~~

~~(C) sale;~~

~~(D) pledge; or~~

~~(E) transfer;~~

~~of all or substantially all of a corporation's assets.~~

(3) ~~Elect, appoint, or remove directors or~~ **Subject to subsection (g),** fill vacancies on the board of directors or on a committee.

(4) Adopt, amend, or repeal ~~articles of incorporation or~~ bylaws.

(f) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described under IC 23-17-13-1.

(g) The board of directors may appoint one (1) or more directors as alternate members of a committee to replace an absent or a disqualified member during the member's absence or disqualification. Unless the articles of incorporation, bylaws, or the resolution creating the committee provides otherwise, in the event of the absence or disqualification of a member of a committee, the members present at a meeting and not disqualified from voting may unanimously appoint another director to act in place of the absent or disqualified member.

(h) A corporation may create or authorize the creation of one (1) or more advisory committees whose members need not be directors.

SECTION 8. IC 23-17-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A corporation shall keep as permanent records a record of the following:

(1) Minutes of meetings of the corporation's members and board of directors.

(2) A record of actions taken by the members or directors without a meeting.

(3) A record of actions taken by committees of the board of directors as authorized under IC 23-17-15-6(d).

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or the corporation's agent shall maintain a record of the corporation's members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A corporation shall maintain the corporation's records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at the corporation's principal office:

(1) The corporation's articles of incorporation or restated articles of incorporation and all amendments to the articles of incorporation currently in effect.

(2) The corporation's bylaws or restated bylaws and all amendments to the bylaws currently in effect.

(3) Resolutions adopted by the corporation's board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or a class or category of members.

(4) The minutes of all meetings of members and records of all actions approved by the members for the past three (3) years.

(5) Written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years under section 6 of this chapter.

(6) A list of the names and business or home addresses of the corporation's current directors and officers.

(7) The corporation's most recent annual report delivered to the secretary of state under section 8 of this chapter.

(f) Except as otherwise provided in articles of incorporation or bylaws, ballots must be retained by a corporation until the earlier of the following:

(1) The date of the next annual meeting.

(2) One (1) year after the date the ballot was received.

SECTION 9. IC 23-17-28-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Except as provided in ~~section 3 of~~ this chapter **or other applicable law,** written notice is effective at the earliest of the following:

(1) When received.

(2) Five (5) days after the notice is mailed, as evidenced by the postmark or private carrier receipt, if mailed correctly addressed to the address listed in the most current records of the corporation.

(3) On the date shown on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(4) Thirty (30) days after the notice is deposited with another method of the United States Postal Service other than first class, registered, or certified postage affixed, as evidenced by the postmark, if mailed correctly addressed to the address listed in the most current records of the corporation.

SECTION 10. IC 26-2-8-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 102. As used in this chapter:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records in which the acts or records of one (1) or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) **"Business entity" means a corporation, nonprofit corporation, limited liability company, limited liability partnership, limited partnership, business trust, real estate investment trust, or any other entity that is formed under the requirements of applicable Indiana law.**

(4) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(5) "Constituent" means a person who holds a position defined in the business entity's organic law that permits the person, directly or indirectly, to own, manage, or operate a business entity either alone or with others. The term includes officers, directors, shareholders, members, managers, general partners, limited partners, partners, and persons occupying a similar status or performing similar functions for a business entity.

~~(4)~~ **(6)**"Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

~~(5)~~ **(7)** "Electronic" means relating to technology having

electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

~~(6)~~ **(8)** "Electronic agent" means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

~~(7)~~ **(9)** "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

~~(8)~~ **(10)** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(11) "Governing documents" means the publicly filed and nonpublicly filed organic documents of a business entity.

~~(9)~~ **(12)** "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, instrumentality, or other political subdivision of the state.

~~(10)~~ **(13)** "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

~~(11)~~ **(14)** "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(15) "Organic actions" means actions, notices, consents, and signatures relating to the operation of a business entity that are undertaken among constituents of that business entity or among constituents of a business entity and that business entity. The term does not include the service of process or the service of a summons, subpoena, or other service contemplated by rules or statutes governing trial procedure, civil procedure, or comparable provisions.

~~(12)~~ **(16)** "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

~~(13)~~ **(17)** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium

and is retrievable in perceivable form. **The term includes records transmitted in the course of organic actions.**

~~(14)~~ **(18)** "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

~~(15)~~ **(19)** "Transaction" means an action or set of actions relating to the conduct of business, commercial, or governmental affairs and occurring between two (2) or more persons. **The term includes an organic action.**

SECTION 11. IC 26-2-8-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 104. (a) This chapter does not require that a record or signature be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter only applies to transactions between parties each of which has agreed to conduct transactions electronically. An agreement to conduct transactions electronically is determined from the context and surrounding circumstances, including the parties' conduct. **A constituent of a business entity and a business entity are presumed to have agreed to conduct organic actions electronically unless and to the extent:**

(1) the governing documents of the business entity limit or prohibit, in whole or in part, the use of electronic signatures, electronic records, or both; or

(2) the business entity expressly states the method, means, or requirement by which a constituent may respond to or participate in any organic action, including imposing a requirement that participants use a specific form of writing, record, or signature.

Unless and to the extent limited or prohibited, any electronic record or electronic signature to be sent to a constituent is properly sent if sent in the manner and to the electronic address or other means of receipt designated by the constituent to receive the electronic record or electronic signature as shown in the current

records of the business entity. If the electronic record is a notice, it is effective when sent. Unless and to the extent limited or prohibited, any electronic record or electronic signature sent by a constituent to a business entity shall be considered properly sent if it is sent in a manner designated by the business entity to an electronic address or other location designated by the business entity in a publication or notice provided by the business entity to the constituent. If the electronic record is a notice, it is effective upon receipt. The publication or notice may be included in the governing documents of the business entity, may be communicated to the constituent in writing, or may be transmitted by any other means selected by the business entity that is reasonably likely to convey the information to the constituent. A constituent or business entity may revoke or change any instruction regarding the manner, electronic address, or means of receipt the person requires for electronic records or electronic signatures by sending notice of the change and the corresponding new information.

(c) If a party agrees to conduct a transaction electronically, this chapter does not prohibit the party from refusing to conduct other transactions electronically. This subsection may not be varied by agreement.

(d) Except as otherwise provided in this chapter, the effect of any provision of this chapter may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter, if applicable, and otherwise by other applicable law.

SECTION 12. IC 26-2-8-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 106. (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record **or electronic signature** was used in its formation.

(c) If a law requires a record to be in writing, or provides consequences if it is not, an electronic record satisfies the law.

(d) If a law requires a signature, or provides consequences in the absence of a signature, the law is satisfied with respect to an electronic record if the electronic record includes an electronic signature.

SECTION 13. IC 23-17-13-2 IS REPEALED [EFFECTIVE JULY 1, 2008].

P.L.111-2008
[H.1284. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-1-3.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall issue an examination warrant appointing one **(1)** or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the NAIC examiner's handbook. The commissioner may also employ such other guidelines or procedures as the commissioner considers appropriate. **The commissioner is not required to issue an examination warrant for a data call.**

(b) Every company or person from whom information is sought, and the officers, directors, and agents of the company or person, must provide to the examiners appointed under subsection (a) timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, and any or all computer or other recordings relating to the property, assets, business, and affairs of the company being examined. The officers, directors, employees, and agents of the company or person must facilitate the examination

and aid in the examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees, or agents within the company's control, to submit to examination or to comply with any reasonable written request of the examiners, or the failure of any company to make a good faith effort to require compliance with such a request, is grounds for:

(1) suspension;

(2) refusal; or

(3) nonrenewal;

of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. The commissioner may proceed to suspend or revoke a license or authority upon the grounds set forth in this subsection under IC 27-1-3-10 or IC 27-1-3-19.

(c) The commissioner and the commissioner's examiners may issue subpoenas, administer oaths, and examine under oath any person as to any matter pertinent to an examination conducted under this chapter. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter any order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

(d) When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners. The cost of retaining these examiners shall be borne by the company that is the subject of the examination.

(e) This chapter does not limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to this title. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

SECTION 2. IC 27-1-12-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. Except for a policy that conforms to the description in section 37(2) of this chapter, a group life insurance policy may be extended to insure the employees or members, or any class or classes of employees or members, against loss due to the death of their spouses and dependent children, subject

to the following:

(1) The premium for the insurance must be paid either from funds contributed by the employer, union, association, or other person to whom the policy has been issued, from funds contributed by the covered persons, or from both sources of funds. Except as provided in subdivision (2), a policy on which no part of the premium for the spouse's and dependent child's coverage is to be derived from funds contributed by the covered persons must insure all eligible employees or members, or any class or classes of eligible employees or members, with respect to their spouses and dependent children.

(2) An insurer may exclude or limit the coverage on any spouse or dependent child as to whom evidence of individual insurability is not satisfactory to the insurer.

~~(3) The amounts of insurance for any covered spouse or dependent child under the policy may not exceed fifty percent (50%) of the amount of insurance for which the employee or member is insured.~~

SECTION 3. IC 27-8-5-1.5, AS ADDED BY P.L.173-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) This section applies to a policy of accident and sickness insurance issued on an individual, a group, a franchise, or a blanket basis, including a policy issued by an assessment company or a fraternal benefit society.

(b) As used in this section, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

(c) As used in this section, "grossly inadequate filing" means a policy form filing:

(1) that fails to provide key information, including state specific information, regarding a product, policy, or rate; or

(2) that demonstrates an insufficient understanding of applicable legal requirements.

(d) As used in this section, "policy form" means a policy, a contract, a certificate, a rider, an endorsement, an evidence of coverage, or any amendment that is required by law to be filed with the commissioner for approval before use in Indiana.

(e) As used in this section, "type of insurance" refers to a type of coverage listed on the National Association of Insurance

Commissioners Uniform Life, Accident and Health, Annuity and Credit Product Coding Matrix, or a successor document, under the heading "Continuing Care Retirement Communities", "Health", "Long Term Care", or "Medicare Supplement".

(f) Each person having a role in the filing process described in subsection (i) shall act in good faith and with due diligence in the performance of the person's duties.

(g) A policy form may not be issued or delivered in Indiana unless the policy form has been filed with and approved by the commissioner.

(h) The commissioner shall do the following:

(1) Create a document containing a list of all product filing requirements for each type of insurance, with appropriate citations to the law, administrative rule, or bulletin that specifies the requirement, including the citation for the type of insurance to which the requirement applies.

(2) Make the document described in subdivision (1) available on the department of insurance Internet site.

(3) Update the document described in subdivision (1) at least annually and not more than thirty (30) days following any change in a filing requirement.

(i) The filing process is as follows:

(1) A filer shall submit a policy form filing that:

(A) includes a copy of the document described in subsection (h);

(B) indicates the location within the policy form or supplement that relates to each requirement contained in the document described in subsection (h); and

(C) certifies that the policy form meets all requirements of state law.

(2) The commissioner shall review a policy form filing and, not more than thirty (30) days after the commissioner receives the filing under subdivision (1):

(A) approve the filing; or

(B) provide written notice of a determination:

(i) that deficiencies exist in the filing; or

(ii) that the commissioner disapproves the filing.

A written notice provided by the commissioner under clause (B) must be based only on the requirements set forth in the document

described in subsection (h) and must cite the specific requirements not met by the filing. A written notice provided by the commissioner under clause (B)(i) must state the reasons for the commissioner's determination in sufficient detail to enable the filer to bring the policy form into compliance with the requirements not met by the filing.

(3) A filer may resubmit a policy form that:

(A) was determined deficient under subdivision (2) and has been amended to correct the deficiencies; or

(B) was disapproved under subdivision (2) and has been revised.

A policy form resubmitted under this subdivision must meet the requirements set forth as described in subdivision (1) and must be resubmitted not more than thirty (30) days after the filer receives the commissioner's written notice of deficiency or disapproval. If a policy form is not resubmitted within thirty (30) days after receipt of the written notice, the commissioner's determination regarding the policy form is final.

(4) The commissioner shall review a policy form filing resubmitted under subdivision (3) and, not more than thirty (30) days after the commissioner receives the resubmission:

(A) approve the resubmitted policy form; or

(B) provide written notice that the commissioner disapproves the resubmitted policy form.

A written notice of disapproval provided by the commissioner under clause (B) must be based only on the requirements set forth in the document described in subsection (h), must cite the specific requirements not met by the filing, and must state the reasons for the commissioner's determination in detail. The commissioner's approval or disapproval of a resubmitted policy form under this subdivision is final, except that the commissioner may allow the filer to resubmit a further revised policy form if the filer, in the filer's resubmission under subdivision (3), introduced new provisions or materially modified a substantive provision of the policy form. If the commissioner allows a filer to resubmit a further revised policy form under this subdivision, the filer must resubmit the further revised policy form not more than thirty (30) days after the filer receives notice under clause (B), and the

commissioner shall issue a final determination on the further revised policy form not more than thirty (30) days after the commissioner receives the further revised policy form.

(5) If the commissioner disapproves a policy form filing under this subsection, the commissioner shall notify the filer, in writing, of the filer's right to a hearing as described in subsection (m). ~~The~~ **A disapproved** policy form **filing** may not be ~~disapproved~~ **used for a policy of accident and sickness insurance** unless ~~it contains a material error or omission. At any~~ **the disapproval is overturned in a** hearing conducted under this subsection. ~~the commissioner must prove that the policy form contains a material error or omission.~~

(6) If the commissioner does not take any action on a policy form that is filed or resubmitted under this subsection in accordance with any applicable period specified in subdivision (2), (3), or (4), the policy form filing is considered to be approved.

(j) Except as provided in this subsection, the commissioner may not disapprove a policy form resubmitted under subsection (i)(3) or (i)(4) for a reason other than a reason specified in the original notice of determination under subsection (i)(2)(B). The commissioner may disapprove a resubmitted policy form for a reason other than a reason specified in the original notice of determination under subsection (i)(2) if:

(1) the filer has introduced a new provision in the resubmission;

(2) the filer has materially modified a substantive provision of the policy form in the resubmission;

(3) there has been a change in requirements applying to the policy form; or

(4) there has been reviewer error and the written disapproval fails to state a specific requirement with which the policy form does not comply.

(k) The commissioner may return a grossly inadequate filing to the filer without triggering a deadline set forth in this section.

(l) The commissioner may disapprove a policy form if:

(1) the benefits provided under the policy form are not reasonable in relation to the premium charged; or

(2) the policy form contains provisions that are unjust, unfair,

inequitable, misleading, or deceptive, or that encourage misrepresentation of the policy.

(m) Upon disapproval of a filing under this section, the commissioner shall provide written notice to the filer or insurer of the right to a hearing within twenty (20) days of a request for a hearing.

(n) Unless a policy form approved under this chapter contains a material error or omission, the commissioner may not:

(1) retroactively disapprove the policy form; or

(2) examine the filer of the policy form during a routine or targeted market conduct examination for compliance with a policy form filing requirement that was not in existence at the time the policy form was filed.

SECTION 4. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) As used in this section, "dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider provides dialysis treatment.**

(b) As used in this section, "contracted dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under section 3 of this chapter.

(c) Notwithstanding section 1 of this chapter, as used in this section, "insured" refers only to an insured who requires dialysis treatment.

(d) As used in this section, "insurer" includes the following:

(1) An administrator licensed under IC 27-1-25.

(2) An agent of an insurer.

(e) As used in this section, "non-contracted dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under section 3 of this chapter.

(f) An insurer shall not require an insured, as a condition of coverage or reimbursement, to:

(1) if the nearest dialysis facility is located within thirty (30) miles of the insured's home, travel more than thirty (30) miles from the insured's home to obtain dialysis treatment; or

(2) if the nearest dialysis facility is located more than thirty (30) miles from the insured's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the insured chooses to receive dialysis treatment at a contracted dialysis facility or a non-contracted dialysis facility.

SECTION 5. IC 27-13-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. "Dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider provides dialysis treatment.**

SECTION 6. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.**

(b) As used in this section, "health maintenance organization" includes the following:

(1) A limited service health maintenance organization.

(2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) A health maintenance organization shall not require an enrollee, as a condition of coverage or reimbursement, to:

(1) if the nearest dialysis facility is located within thirty (30) miles of the enrollee's home, travel more than thirty (30) miles from the enrollee's home to obtain dialysis treatment; or

(2) if the nearest dialysis facility is located more than thirty (30) miles from the enrollee's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

SECTION 7. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "committee" refers to the interim study committee on dialysis coverage established by subsection (b).**

(b) There is established the interim study committee on dialysis coverage.

(c) The committee consists of the following members:

(1) Four (4) legislators appointed by the president pro tempore of the senate, not more than two (2) of whom may be

members of the same political party.

(2) Four (4) legislators appointed by the speaker of the house of representatives, not more than two (2) of whom may be members of the same political party.

(3) The executive director of the Indiana comprehensive health insurance association established by IC 27-8-10-2.1, who shall serve as chairperson of the committee.

(d) The committee shall study issues related to coverage of dialysis treatment under a policy of accident and sickness insurance and a health maintenance organization contract, including:

(1) requirements, as a condition of coverage or reimbursement, for patients to obtain treatment from particular dialysis treatment providers;

(2) costs related to dialysis treatment;

(3) availability, including changes in availability since 2003, of dialysis treatment throughout Indiana;

(4) payment rates, including changes in payment rates since 2003, for dialysis treatment throughout Indiana;

(5) consideration of the items described in subdivisions (1) through (4) as affected by a dialysis treatment provider's participation in provider networks used by accident and sickness insurers and health maintenance organizations; and

(6) additional issues related to coverage of dialysis treatment, as determined by the committee.

(e) The committee shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(g) The committee shall submit a final report to the legislative council in an electronic format under IC 5-14-6 before November 1, 2008.

(h) This SECTION expires December 31, 2008.

SECTION 8. **An emergency is declared for this act.**

P.L.112-2008
[H.1379. Approved March 21, 2008.]

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-1-12-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 44. (a) This section applies to a life insurance policy that is issued after June 30, 2008.**

(b) Notwithstanding any other law, an insurer shall not, after a life insurance policy has been in force for two (2) years after the life insurance policy's date of issue, allege that the life insurance policy was issued in connection with stranger originated life insurance (as defined in IC 27-8-19.8-7.8) as a basis to deny payment of the proceeds of the life insurance policy. However, an insurer may seek to void a life insurance policy at any time for lack of insurable interest at the time the life insurance policy was issued.

SECTION 2. IC 27-4-1-4, AS AMENDED BY HEA 1137-2008, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer,

or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any

public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their

premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any

part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the

event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1, 2007, and repealed).

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-19.8-20.1 concerning stranger originated life insurance.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 3. IC 27-8-19.8-7.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.8. (a) As used in this chapter, "stranger originated life insurance" means a practice or plan to**

initiate a life insurance policy for the benefit of a third party investor who, at the time the life insurance policy is originated, has no insurable interest in the insured.

(b) The term includes the following:

(1) An arrangement under which, at the time of life insurance policy inception:

(A) a life insurance policy is purchased with resources or guarantees from or through a person that is not legally permitted to initiate the life insurance policy; and

(B) a written or verbal arrangement or agreement is made to transfer the ownership of the life insurance policy or policy benefits to a third party.

(2) A trust that is:

(A) created to give an appearance of the existence of an insurable interest; and

(B) used to initiate a life insurance policy for an investor.

SECTION 4. IC 27-8-19.8-20.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20.1. (a) A person shall not issue, solicit, market, or otherwise promote the purchase of a life insurance policy in connection with stranger originated life insurance.**

(b) A violation of this section is an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

P.L.113-2008

[S.42. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The commission shall do the

following:

(1) Determine whether the contractor for the office under IC 12-15-30 that has responsibility for processing provider claims for payment under the Medicaid program has properly performed the terms of the contractor's contract with the state.

(2) Determine whether a managed care organization that has contracted with the office to provide Medicaid services has properly performed the terms of the managed care organization's contract with the state.

~~(2)~~ **(3)** Study and propose legislative and administrative procedures that could help reduce the amount of time needed to process Medicaid claims and eliminate reimbursement backlogs, delays, and errors.

~~(3)~~ **(4)** Oversee the implementation of a case mix reimbursement system developed by the office and designed for Indiana Medicaid certified nursing facilities.

~~(4)~~ **(5)** Study and investigate any other matter related to Medicaid.

~~(5)~~ **(6)** Study and investigate all matters related to the implementation of the children's health insurance program established by IC 12-17.6.

SECTION 2. IC 12-8-1-10, AS AMENDED BY P.L.234-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2007 (RETROACTIVE)]: Sec. 10. This chapter expires January 1, ~~2008.~~ **2010.**

SECTION 3. IC 12-8-2-12, AS AMENDED BY P.L.234-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2007 (RETROACTIVE)]: Sec. 12. This chapter expires January 1, ~~2008.~~ **2010.**

SECTION 4. IC 12-8-6-10, AS AMENDED BY P.L.234-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2007 (RETROACTIVE)]: Sec. 10. This chapter expires January 1, ~~2008.~~ **2010.**

SECTION 5. IC 12-8-8-8, AS AMENDED BY P.L.234-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2007 (RETROACTIVE)]: Sec. 8. This chapter expires January 1, ~~2008.~~ **2010.**

SECTION 6. IC 12-15-12-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) Not later than January 1, 2011, the following must be accredited by the National Committee for Quality Assurance or its successor:**

(1) A managed care organization that has contracted with the office before July 1, 2008, to provide Medicaid services under the risk based managed care program.

(2) A behavioral health managed care organization that has contracted before July 1, 2008, with a managed care organization described in subdivision (1).

(b) A:

(1) managed care organization that has contracted with the office after June 30, 2008, to provide Medicaid services under the risk based managed care program; or

(2) behavioral health managed care organization that has contracted after June 30, 2008, with a managed care organization described in subdivision (1);

must begin the accreditation process and obtain accreditation by the National Committee for Quality Assurance or its successor at the earliest time that the National Committee for Quality Assurance allows a managed care organization to be accredited.

SECTION 7. IC 12-15-12-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22. A:**

(1) managed care organization that has a contract with the office to provide Medicaid services under the risk based managed care program; or

(2) behavioral health managed care organization that has contracted with a managed care organization described in subdivision (1);

shall accept, receive, and process claims for payment that are filed electronically by a Medicaid provider.

SECTION 8. IC 2-5-26-15 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 9. [EFFECTIVE DECEMBER 31, 2007 (RETROACTIVE)] **Actions taken under IC 12-8-1, IC 12-8-2, IC 12-8-6, and IC 12-8-8 after December 31, 2007, and before the passage of this act are legalized and validated to the extent that those actions would have been legal and valid if this act had been**

enacted before January 1, 2008.

SECTION 10. **An emergency is declared for this act.**

P.L.114-2008

[S.43. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning state administration and environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-21.5-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a) Except as provided in subsection (b),** a person who applies to be a mediator under this chapter must ~~have:~~

~~(1) completed at least forty (40) hours of mediation training in courses certified as appropriate for mediation training by the Indiana commission for continuing legal education;~~

~~(2) received a minimum of five (5) hours of mediation training during the two (2) year period before application; and~~

~~(3) received a minimum of five (5) hours of mediation training during the two (2) year period before reapplication if reapplication is required by the agency involved.~~

be qualified as a mediator under Rule 2.5 of the Indiana Supreme Court Rules for Alternative Dispute Resolution.

(b) Subject to approval of the administrative law judge, the parties may agree on any person to serve as a mediator.

SECTION 2. IC 5-24-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. IC 13-14-13 and IC 13-30-10-1 apply to the use of an electronic submission for any of the following:**

(1) Satisfaction of a state or federal requirement for reporting to the department of environmental management.

(2) Satisfaction of the requirements for an application to the department of environmental management.

(3) Submission to the department of environmental management of any other substitute for a paper document.

SECTION 3. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

(1) proceeds of special taxing district bonds of the storm water district;

(2) the assumption of liability incurred to construct the storm water system being acquired;

(3) service rates;

(4) revenue bonds; or

(5) any other available funds.

(b) **Except as provided in IC 36-9-23-37,** the board, after holding a public hearing with notice given under IC 5-3-1 and obtaining the approval of the fiscal body of the unit served by the department, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

(1) A flat charge for each lot, parcel of property, or building.

(2) The amount of impervious surface on the property.

(3) The number and size of storm water outlets on the property.

(4) The amount, strength, or character of storm water discharged.

(5) The existence of improvements on the property that address storm water quality and quantity issues.

(6) The degree to which storm water discharged from the property affects water quality in the storm water district.

(7) Any other factors the board considers necessary.

(e) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

(1) variations in the costs, including capital expenditures, of furnishing services to various classes of users or to various locations;

(2) variations in the number of users in various locations; and

(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

SECTION 4. IC 13-11-2-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.7. "ABS sensor", for purposes of IC 13-20-17.7, refers to an anti-lock braking system G-force sensor.**

SECTION 5. IC 13-13-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The department must include the following divisions:

(1) An air pollution control division.

(2) A water pollution control division.

(3) A solid waste management division.

~~(4) A laboratory division.~~

~~(5)~~ **(4)** An administrative services division.

~~(6)~~ **(5)** A division of pollution prevention.

SECTION 6. IC 13-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The:

(1) position of commissioner;

(2) highest position in each of the offices, except for the offices identified in:

(A) IC 13-13-3-1(1); and

(B) IC 13-13-3-1(3); and

(3) highest position in each of the divisions; ~~except for the division identified in IC 13-13-3-2(4);~~

are subject to IC 4-15-1.8.

SECTION 7. IC 13-14-9.5-4, AS AMENDED BY P.L.123-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b), **with respect to the rules subject to expiration under this chapter,** the department or a board that has rulemaking authority under this title:

(1) may readopt ~~all~~ **one (1) or more of the** rules ~~subject to expiration under this chapter~~ under one (1) rule that lists all rules that are readopted by their titles and subtitles only; **and**

(2) shall publish a notice in the Indiana Register identifying:

(A) the rules, if any, that will be readopted; and

(B) the rules, if any, that will not be readopted.

A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

(b) If a person submits to the department or a board that has rulemaking authority under this title a written request ~~and~~ **stating** a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule described in subsection (a), the department or board must:

(1) ~~readopt~~ **consider readoption of** that rule separately from the readoption rule described in subsection (a); and

(2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

(c) If the department or board does not receive a written request under subsection (b) regarding a rule within the first comment period, the agency may:

(1) submit the **readoption** rule for filing with the publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule; or

(2) **for one (1) or more of the rules proposed to be readopted as part of the readoption rule described in subsection (a),** elect the procedure for readoption under IC 13-14-9.

(d) If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule that the department or board does not intend to readopt as part of the readoption rule described in subsection (a) be readopted, the department or board must:

(1) consider readoption of that rule separately from the readoption rule described in subsection (a); and

(2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

SECTION 8. IC 13-14-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]:

Chapter 13. Electronic Applications and Reports

Sec. 1. This chapter applies to the use of an electronic submission for any of the following:

(1) Satisfaction of a state or federal requirement for reporting to the department.

(2) Satisfaction of the requirements for an application to the department.

(3) Submission to the department of any other substitute for a paper document.

Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

(1) Standards established under IC 5-24 and corresponding rules.

(2) Requirements of cross-media electronic reporting under 40 CFR 3.

(3) Procedures established by the department to accept electronic information.

Sec. 3. The department may not require a person to make electronic submissions under this chapter.

Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be required to sign the paper document for which the electronic document substitutes.

(b) The procedures adopted under subsection (a) may provide for electronic signature standards that are:

(1) acceptable to the state board of accounts under IC 5-24; and

(2) consistent with 40 CFR 3.

Sec. 5. Information submitted in an acceptable electronic document under a procedure adopted under section 4 of this chapter must have a signature uniquely assigned. The receiving system for the document must be able to attribute the signature to a specific individual. If an electronic document is submitted under an assigned signature, the signatory may not repudiate responsibility for the signature.

Sec. 6. A person is subject to applicable state or federal civil,

criminal, or other penalties and remedies for failure to comply with a reporting requirement if the person submits an electronic document that:

(1) is in place of a paper document under this chapter; and

(2) fails to comply with the following:

(A) Standards established under IC 5-24 and supporting rules.

(B) Requirements of cross-media electronic reporting under 40 CFR 3.

(C) Procedures established by the department to accept electronic information.

Sec. 7. A person submitting information using an assigned signature is liable under IC 13-30-10 for the information provided and subject to penalties under that chapter, regardless of whether the information submitted is in electronic form or other form.

SECTION 9. IC 13-18-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. ~~(a)~~ The commissioner shall issue certificates attesting to the competency of operators. A certificate must indicate the classification of works, plant, or system that the operator is qualified to supervise.

~~(b) Each operator shall prominently display the operator's certificate in the office of the operator.~~

SECTION 10. IC 13-18-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person may not transport, treat, store, or dispose of wastewater in violation of this chapter.

(b) A person may not engage in:

(1) the cleaning of sewage disposal systems; or

(2) the transportation, treatment, storage, or disposal of wastewater;

without a wastewater management permit unless the person is exempted under section 7 of this chapter.

(c) A person may not operate a vehicle for the transportation of wastewater without a wastewater management vehicle ~~license~~ **identification number issued** under this chapter unless the person is exempted under section 4(a)(2) of this chapter.

(d) A person may not dispose of wastewater by land application without first obtaining approval of the land application site under this chapter.

(e) The department may issue a wastewater management permit that incorporates issuance of a wastewater management vehicle identification number and approval of a land application site.

~~(e)~~ **(f)** The department may issue new and renewal permits, ~~licenses,~~ **identification numbers,** and approvals under this chapter for a period the department determines appropriate. However, the period may not exceed three (3) years.

SECTION 11. IC 13-18-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board shall, in accordance with IC 13-14-8, adopt rules to establish the following:

(1) Standards for the following:

(A) The issuance of wastewater management permits under section 3 of this chapter.

(B) Cleaning of sewage disposal systems.

(C) Transportation, storage, and treatment of wastewater, and disposal of wastewater, including land application.

(2) ~~Licensure~~ **Issuance** of **identification numbers for** all vehicles used in wastewater management services. However, the board may exempt by rule vehicles licensed on September 1, 1983, under the industrial waste haulers rule 320 IAC 5-10 as the rule existed on September 1, 1983.

(3) Procedures and standards for approval of sites for land application of wastewater.

(b) The board may designate a county or city health agency as the board's agent to approve land application sites in accordance with rules adopted under this section.

SECTION 12. IC 13-18-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Subject to subsections (b) and (c), the board may adopt a fee schedule for the issuance of:

(1) wastewater management permits;

(2) wastewater management vehicle ~~licenses;~~ **identification numbers;** and

(3) land application site approvals;

under this chapter.

(b) A permit fee may not exceed one hundred dollars ($100) per year.

(c) A vehicle ~~license~~ **identification number** or land application

approval fee may not exceed thirty dollars ($30) per year per vehicle or site.

(d) Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

SECTION 13. IC 13-18-12-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.5. In addition to any other authority in this title, the commissioner or a designated staff member may, under IC 4-21.5, revoke or modify a permit, ~~license,~~ **a vehicle identification number,** or **an** approval issued under this chapter for any of the following reasons:

(1) Violation of a requirement of this chapter, rules adopted under this chapter, a permit, ~~a license,~~ **an identification number,** or an approval.

(2) Failure to disclose all relevant facts.

(3) A misrepresentation made in obtaining the permit, ~~license,~~ **identification number,** or approval.

(4) Failing to meet the qualifications for a permit, ~~a license,~~ **an identification number,** or an approval or failing to comply with the requirements of the water pollution control laws or rules adopted by the board.

(5) Changes in circumstances relating to the permit, ~~license,~~ **identification number,** or approval that require either a temporary or permanent reduction in the discharge of contaminants.

SECTION 14. IC 13-18-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. This chapter does not require a person to obtain a permit or vehicle ~~license~~ **identification number** under this chapter if the person is:

(1) engaged in:

(A) servicing or maintaining publicly owned wastewater treatment facilities; or

(B) transportation of wastewater from a publicly owned wastewater treatment facility;

as long as the wastewater at that facility has been fully treated and is stabilized;

(2) transporting wastewater from the point of its removal to

another location on the same site or tract owned by the same person, although disposal of the wastewater must be done in accordance with this chapter; or

(3) a homeowner who cleans and services the sewage disposal system serving only the homeowner's residence, although transportation and disposal of wastewater must be done in compliance with this chapter.

SECTION 15. IC 13-19-4-2, AS AMENDED BY P.L.154-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Before an application for the issuance, transfer, or major modification of a permit for a solid waste processing facility, solid waste disposal facility, or hazardous waste facility may be granted, the applicant and each person who is a responsible party with respect to the applicant must submit to the department:

(1) a disclosure statement that:

(A) meets the requirements set forth in section 3(a) of this chapter; and

(B) is executed under section 3(b) of this chapter; or

(2) all of the following information:

(A) The information concerning legal proceedings that:

(i) is required under Section 13 or 15(d) of the federal Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); and

(ii) the applicant or responsible party has reported under form 10-K.

(B) A description of all judgments that:

(i) have been entered against the applicant or responsible party in a proceeding described in section 3(a)(3) of this chapter; and

(ii) have imposed upon the applicant or responsible party a fine or penalty described in section 3(a)(3)(A) of this chapter.

(C) A description of all judgments of conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.

(D) Any other related information to support the application requested by the department concerning either

of the following:

(i) The applicant.

(ii) The responsible party.

SECTION 16. IC 13-19-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) In a disclosure statement required by section 2 of this chapter, the applicant or responsible party shall set forth the following information:

(1) The name **and** business address ~~and Social Security number~~ of the applicant or responsible party.

(2) A description of the applicant's or responsible party's experience in managing the type of waste that will be managed under the permit.

(3) A description of all civil and administrative complaints against the applicant or responsible party for the violation of any state or federal environmental protection law that:

(A) have resulted in a fine or penalty of more than ten thousand dollars ($10,000) within five (5) years before the date of the submission of the application; or

(B) allege an act or omission that:

(i) constitutes a material violation of the state or federal environmental protection law; and

(ii) presented a substantial endangerment to the public health or the environment.

(4) A description of all pending criminal complaints alleging the violation of any state or federal environmental protection law that have been filed against the applicant or responsible party within five (5) years before the date of submission of the application.

(5) A description of all judgments of criminal conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.

(6) A description of all judgments of criminal conviction of a felony constituting a crime of moral turpitude under the laws of any state or the United States that are entered against the applicant or responsible party within five (5) years before the date of submission of the application.

(7) The location of all facilities at which the applicant or responsible party manages the type of waste that would be

managed under the permit to which the application refers.

(b) A disclosure statement submitted under section 2(1) of this chapter:

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44-2-1.

SECTION 17. IC 13-20-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) This section applies only:**

(1) in a county that does not zone under IC 36-7-4; and

(2) to a facility:

(A) that is proposed to be constructed after April 1, 2008;

(B) that is not exempt under IC 13-20-1-1 from the demonstration of needs requirements of IC 13-20-1; and

(C) for which a permit for construction or operation is required under this article.

(b) If:

(1) a person submitted to the department before April 1, 2008:

(A) an application under this chapter for an original construction permit for a facility;

(B) a modification of an application under this chapter previously submitted to the department for an original construction permit for a facility; or

(C) an application under this chapter for modification of an original construction permit issued by the department under this chapter; and

(2) the department did not issue the permit or modified permit applied for as described in subdivision (1) before April 1, 2008;

the person must submit a new application for an original construction permit for the facility and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(c) The fee under IC 13-20-21-3 does not apply to the new application for an original construction permit under subsection (b).

(d) The county executive of a county in which a facility is proposed to be located must adopt an ordinance approving the

proposed facility location before the department may issue an original construction permit in response to:

(1) a new application for an original construction permit for the facility under subsection (b); or

(2) an application for an original construction permit for the facility submitted to the department after March 31, 2008.

SECTION 18. IC 13-20-2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) This section applies only:**

(1) in a county that zones under IC 36-7-4; and

(2) to a facility:

(A) for which the zoning required for the construction of the facility was approved before April 1, 1985;

(B) for which the department issued a valid construction permit under this chapter before April 1, 2008; and

(C) that did not accept waste before April 1, 2008.

(b) The person that holds the permit referred to in subsection (a)(2)(B) may begin or complete construction of the facility referred to in subsection (a)(2) only if after April 1, 2008, the zoning authority that has jurisdiction reviews and approves the:

(1) appropriateness; and

(2) legality;

of the zoning referred to in subsection (a)(2)(A) under the requirements of all applicable zoning laws existing at the time of the review.

SECTION 19. IC 13-20-17.7-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. (a) The goal of the program established under this chapter is to remove at least eighty percent (80%) of all mercury switches from end of life vehicles processed in Indiana by motor vehicle recyclers.**

(b) Implementing the program established under this chapter addresses the mercury national emission standards for hazardous air pollutants for facilities using recycled steel.

SECTION 20. IC 13-20-17.7-5, AS ADDED BY P.L.170-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Beginning thirty (30) days after the earliest

date the commissioner approves a plan under section 4 of this chapter, **except as provided in subsection (f),** a motor vehicle recycler is required to remove all mercury switches from each end of life vehicle the motor vehicle recycler receives upon receipt of the vehicle.

(b) ~~After~~ A mercury switch **that** is removed from a vehicle ~~the mercury switch~~ shall be collected, stored, transported, and ~~otherwise handled~~ **recycled or properly disposed of** in accordance with the plan approved under section 4 of this chapter. **Either of the following that is removed from a vehicle shall be collected, stored, transported, and recycled or properly disposed of in the same manner as a mercury switch:**

(1) An ABS sensor.

(2) Any other component containing more than ten (10) milligrams of mercury.

(c) Notwithstanding subsection (a), a motor vehicle recycler may accept an end of life vehicle containing mercury switches that has not been intentionally flattened, crushed, or baled if the motor vehicle recycler assumes responsibility for removing the mercury switches.

(d) A motor vehicle recycler or any other person that removes mercury switches, **ABS sensors, or any other components containing more than ten (10) milligrams of mercury** in accordance with this section shall maintain records that document the number of:

(1) end of life vehicles the person processed for recycling;

(2) end of life vehicles the person processed that contained mercury switches, **ABS sensors, or any other components containing more than ten (10) milligrams of mercury;** and

(3) mercury switches, **ABS sensors, and any other components containing more than ten (10) milligrams of mercury** the person collected.

A person that maintains records under this section shall retain the records for at least three (3) years.

(e) A person may not represent that mercury switches, **ABS sensors, or any other components containing more than ten (10) milligrams of mercury** have been removed from a motor vehicle being sold or otherwise conveyed for recycling if the person has not removed the mercury switches, **sensors, or other components** from the vehicle.

(f) ~~A motor vehicle recycler or other person that receives an~~ **Subsection (a) does not apply to a mercury switch in an end of life**

vehicle that is:

(1) intentionally flattened, crushed, or baled; ~~end of life vehicle may not be considered to be in violation of this section if a mercury switch is found in the vehicle after the person acquires the vehicle.~~ **or**

(2) damaged to the extent that the mercury switch cannot be removed without dismantling the vehicle.

SECTION 21. IC 13-20-17.7-6, AS ADDED BY P.L.170-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Subject to subsections (b), (c), and (d), a person is entitled to payment from the department for each ~~mercury switch~~ **of the following** the person removes from an end of life vehicle under ~~section 5(a)~~ **section 5** of this chapter:

(1) A mercury switch.

(2) An ABS sensor.

(3) Any other component containing more than ten (10) milligrams of mercury.

(b) The commissioner shall establish:

(1) the amount of the payment under subsection (a), which must be:

(A) at least one dollar ($1); and

(B) not more than five dollars ($5);

per mercury switch, **ABS sensor, or other component containing more than ten (10) milligrams of mercury;** and

(2) a procedure for claims for payment under this section.

(c) The commissioner shall determine:

(1) whether to use money in the state solid waste management fund; and

(2) if the commissioner determines under subdivision (1) to use money in that fund, the amount of money from the fund to be used;

to make payments under this section.

(d) The department is required to make payments under this section only to the extent of the amount of money determined by the commissioner under subsection (c)(2).

SECTION 22. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include

the following:

(1) The power to develop and implement a district solid waste management plan under IC 13-21-5.

(2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.

(3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(4) The power to sue and be sued.

(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.

(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents ($0.0833) on each one hundred dollars ($100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to

discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) ~~In a joint district,~~ The power to pay a fee from district money to:

(A) in a joint district, the **county or** counties ~~in the district~~ in which a final disposal facility is located; **or**

(B) a county that:

(i) was part of a joint district;

(ii) has withdrawn from the joint district as of January 1, 2008; and

(iii) has established its own district in which a final disposal facility is located.

(23) The power to make grants or loans of:

(A) money;

(B) property; or

(C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

(A) equipping;

(B) expanding;
(C) modifying; or
(D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

(A) the reuse and recycling of mercury in:
(i) mercury commodities; and
(ii) mercury-added products; and

(B) collection programs available to the public for:
(i) mercury commodities; and
(ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

SECTION 23. IC 13-23-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Subject to subsection (b),** the underground petroleum storage tank excess liability trust fund is established for the following purposes:

(1) Assisting owners and operators of underground petroleum storage tanks to establish evidence of financial responsibility as required under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities incurred by owners and operators of underground petroleum storage tanks

under IC 13-23-13-8 for corrective action.

(3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3.

(4) Providing a source of money to pay for the expenses of the department incurred in paying and administering claims against the trust fund. Money may be provided under this subdivision only for those job activities and expenses that consist exclusively of administering the excess liability trust fund.

(5) Providing a source of money to pay for the expenses of the department incurred in inspecting underground storage tanks.

(b) The combined amount of payments described in subsection (a)(4) and (a)(5) from the underground petroleum storage tank excess liability trust fund in a state fiscal year may not exceed ten percent (10%) of the fund income in the immediately preceding state fiscal year.

SECTION 24. IC 13-30-8-1, AS AMENDED BY P.L.137-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A vehicle that is used to transport hazardous waste in the commission of an offense described in ~~IC 13-30-10-4~~ **IC 13-30-10-1.5** is subject to forfeiture under IC 34-24-1.

SECTION 25. IC 13-30-10-1, AS ADDED BY P.L.137-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~(a) A person who knowingly or intentionally makes a material misstatement in connection with an application for a permit submitted to the department commits a Class D felony.~~

~~(b)~~ **(a)** A person who knowingly or intentionally destroys, alters, conceals, or falsely certifies a record that:

(1) is required to be maintained under the terms of a permit issued by the department; and

(2) may be used to determine the status of compliance;

commits a ~~Class D felony.~~ **Class B misdemeanor.**

~~(c)~~ **(b)** A person who knowingly or intentionally renders inaccurate or inoperative a recording device or a monitoring device required to be maintained by a permit issued by the department commits a ~~Class D felony.~~ **Class B misdemeanor.**

~~(d)~~ **(c)** A person who knowingly or intentionally falsifies testing or monitoring data required by a permit issued by the department commits a ~~Class D felony.~~ **Class B misdemeanor.**

(d) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

SECTION 26. IC 13-30-10-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) Except as provided in subsection (b), a person regulated under IC 13-22 who knowingly does any of the following commits a Class B misdemeanor:**

(1) Transports hazardous waste to an unpermitted facility.

(2) Treats, stores, or disposes of hazardous waste without a permit issued by the department.

(3) Transports, treats, stores, disposes, recycles, or causes to be transported used oil regulated under 329 IAC 13 in violation of the standards established by the department for the management of used oil.

(4) Makes a false material statement or representation in any label, manifest, record, report, or other document filed or maintained under the hazardous waste or used oil standards.

(b) An offense under subsection (a) is a Class D felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (a) is a Class C felony if the offense results in the death of another person.

(c) Before imposing sentence upon conviction of an offense under subsection (a) or (b), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(d) Notwithstanding the maximum fine under IC 35-50-3-3, the court shall order a person convicted under subsection (a) to pay a fine of at least five thousand dollars ($5,000) per day for each violation and not more than twenty-five thousand dollars ($25,000) per day for each violation.

(e) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (b) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(f) Except as provided in subsection (g), a person regulated under IC 13-17 who does any of the following commits a Class C misdemeanor:

(1) Knowingly violates any applicable requirements of IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8, IC 13-17-9, IC 13-17-10, IC 13-17-13, or IC 13-17-14.

(2) Knowingly violates any air pollution registration, construction, or operating permit condition issued by the department.

(3) Knowingly violates any fee or filing requirement in IC 13-17.

(4) Knowingly makes any false material statement, representation, or certification in any form, notice, or report required by an air pollution registration, construction, or operating permit issued by the department.

(g) An offense under subsection (f) is a Class D felony if the offense results in damage to the environment that renders the

environment unfit for human or vertebrate animal life. An offense under subsection (f) is a Class C felony if the offense results in the death of another person.

(h) Before imposing sentence upon conviction of an offense under subsection (f) or (g), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(i) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (f) to pay a fine of at least five thousand dollars ($5,000) per day for each violation and not more than twenty-five thousand dollars ($25,000) per day for each violation.

(j) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (g) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(k) Except as provided in subsection (l), a person regulated

under IC 13-18 who does any of the following commits a Class C misdemeanor:

(1) Willfully or recklessly violates any applicable standards or limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8, IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14, IC 13-18-15, or IC 13-18-16.

(2) Willfully or recklessly violates any National Pollutant Discharge Elimination System permit condition issued by the department under IC 13-18-19.

(3) Willfully or recklessly violates any National Pollutant Discharge Elimination System Permit filing requirement.

(4) Knowingly makes any false material statement, representation, or certification in any National Pollutant Discharge Elimination System Permit form or in any notice or report required by a National Pollutant Discharge Elimination System permit issued by the department.

(l) An offense under subsection (k) is a Class D felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (k) is a Class C felony if the offense results in the death of another person.

(m) Before imposing sentence upon conviction of an offense under subsection (k) or (l), the court shall consider any or a combination of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a

result described in subdivision (1).

(3) Whether the discharge was the result of a combined sewer overflow and the person regulated had given notice of that fact to the department.

(n) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(1), (k)(2), or (k)(3) to pay a fine of at least five thousand dollars ($5,000) a day for each violation and not more than twenty-five thousand dollars ($25,000) a day for each violation.

(o) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(4) to pay a fine of at least five thousand dollars ($5,000) for each instance of violation and not more than ten thousand dollars ($10,000) for each instance of violation.

(p) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (l) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(q) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

SECTION 27. IC 34-24-1-1, AS AMENDED BY P.L.137-2007, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of ~~IC 13-30-10-4.~~ **IC 13-30-10-1.5.**

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal

statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a

person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly

permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(2) IC 35-48-4-1.1 (dealing in methamphetamine).

(3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Class A felony, Class B felony, or Class C felony.

(7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

(e) A motor vehicle operated by a person who is not:

(1) an owner of the motor vehicle; or

(2) the spouse of the person who owns the motor vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15)

SECTION 28. IC 36-9-23-5, AS AMENDED BY P.L.1-2007, SECTION 247, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 5. As used in sections 6 through ~~36~~ **37** of this chapter, "board" means:

(1) the municipal works board; or

(2) if the municipality has transferred the powers and duties of the works board under section 3 of this chapter, the:

(A) sanitary board; or

(B) utility service board;

to which those powers have been transferred.

SECTION 29. IC 36-9-23-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) **Subject to section 37 of this chapter,** the municipal legislative body shall, by ordinance, establish just and equitable fees for the services rendered by the sewage works, and provide the dates on which the fees are due.

(b) Just and equitable fees are the fees required to maintain the sewage works in the sound physical and financial condition necessary to render adequate and efficient service. The fees must be sufficient to:

(1) pay all expenses incidental to the operation of the works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals, and interest charges on bonds or other obligations;

(2) provide the sinking fund required by section 21 of this chapter;

(3) provide adequate money to be used as working capital; and

(4) provide adequate money for improving and replacing the works.

Fees established after notice and hearing under this chapter are presumed to be just and equitable.

(c) The fees are payable by the owner of each lot, parcel of real property, or building that:

(1) is connected with the sewage works by or through any part of the municipal sewer system; or

(2) uses or is served by the works.

Unless the municipal legislative body finds otherwise, the works are considered to benefit every lot, parcel of real property, or building connected or to be connected with the municipal sewer system as a result of construction work under the contract, and the fees shall be billed and collected accordingly.

(d) The municipal legislative body may use one (1) or more of the

following factors to establish the fees:

(1) A flat charge for each sewer connection.

(2) The amount of water used on the property.

(3) The number and size of water outlets on the property.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Whether the property has been or will be required to pay separately for any part of the sewage works.

(7) Whether the property, although vacant or unimproved, is benefited by a local or lateral sewer because of the availability of that sewer. However, the owner must have been notified, by recorded covenants and restrictions or deed restrictions in the chain of title of his property, that a fee or assessment for sewer availability may be charged, and the fee may reflect only the capital cost of the sewer and not the cost of operation and maintenance of the sewage works.

(8) The cost of collecting, treating, and disposing of garbage in a sanitary manner, including equipment and wages.

(9) The amount of money sufficient to compensate the municipality for the property taxes that would be paid on the sewage works if the sewage works were privately owned.

(10) Any other factors the legislative body considers necessary.

Fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works. The board may transfer fees collected in lieu of taxes under subdivision (9) to the general fund of the municipality.

(e) The municipal legislative body may exercise reasonable discretion in adopting different schedules of fees, or making classifications in schedules of fees, based on variations in:

(1) the costs, including capital expenditures, of furnishing services to various classes of users or to various locations; or

(2) the number of users in various locations.

SECTION 30. IC 36-9-23-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) After the introduction of the ordinance establishing fees under section 25 of this chapter, but before it is finally adopted, the municipal legislative body

shall hold a public hearing at which users of the sewage works, owners of property served or to be served by the works, and other interested persons may be heard concerning the proposed fees. Notice of the hearing, setting forth the proposed schedule of fees, shall be:

(1) published in accordance with IC 5-3-1;

(2) mailed to owners of vacant or unimproved property if the ordinance includes a fee for sewer availability to vacant or unimproved property; and

(3) mailed to users of the sewage works located outside the municipality's corporate boundaries.

The notice may be mailed in any form so long as the notice of the hearing is conspicuous. The hearing may be adjourned from time to time.

(b) After the hearing, the municipal legislative body shall adopt the ordinance establishing the fees, either as originally introduced or as modified. A copy of the schedule of fees adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk.

(c) **Subject to section 37 of this chapter,** the fees established for any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(d) The municipal legislative body may change or readjust the fees in the same manner by which they were established.

(e) Fees collected under this chapter are considered revenues of the sewage works.

SECTION 31. IC 36-9-23-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. **(a) Except as provided in subsections (b) and (c),** a municipality may exercise powers granted by this chapter in areas within ten (10) miles outside its corporate boundaries. ~~However, this~~

(b) The mileage limitation **in subsection (a)** does not apply to the provision of sewage treatment service for an entity that is described in section 16(b)(2) of this chapter.

(c) In an area referred to in subsection (a), a municipality may not:

(1) impose fees under this chapter; or

(2) otherwise exercise powers granted by this chapter;

to provide storm water management services to the area if the county provides storm water management services to the area under IC 8-1.5-5.

SECTION 32. IC 36-9-23-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 37. (a) As used in this section:**

(1) "service" means:

(A) imposing fees; and

(B) otherwise exercising powers;

to provide storm water management services; and

(2) "storm water board" refers to a board defined in IC 8-1.5-5-2.

(b) This section applies only if actions of:

(1) a board under section 36 of this chapter; and

(2) a storm water board under IC 8-1.5-5;

are pending at the same time to service the same area outside a municipality's corporate boundaries.

(c) The board and the storm water board must negotiate the adoption by the board and the storm water board of a memorandum of understanding that permits only the board or only the storm water board to service the area referred to in subsection (b). Neither the board nor the storm water board may service the area before a memorandum of understanding is adopted under this subsection. The entity designated to service the area in the memorandum of understanding may finalize the entity's action referred to in subsection (b). The entity not designated to service the area in the memorandum of understanding must terminate the entity's action referred to in subsection (b).

SECTION 33. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 13-30-10-2; IC 13-30-10-3; IC 13-30-10-4.

SECTION 34. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "task force" refers to the environmental crimes task force established by this SECTION.**

(b) There is established the environmental crimes task force.

(c) The task force consists of the members of the environmental crimes task force created by P.L.1-2006, SECTION 590, who served on December 31, 2007.

(d) The appointed members of the task force serve at the

pleasure of the appointing authority under P.L.1-2006, SECTION 590. The appointing authority under P.L.1-2006, SECTION 590, shall fill any vacancy on the task force within forty-five (45) days.

(e) The chairman of the legislative council shall designate a legislative member of the task force to serve as chairperson of the task force.

(f) The expenses of the task force shall be paid from appropriations made to the legislative council or the legislative services agency.

(g) The task force shall do the following:

(1) Conduct at least one (1) public hearing to receive comments from the public on the need for further amendments to IC 13-30-10.

(2) If the task force determines that further amendments to IC 13-30-10 are appropriate, prepare recommendations for amendments to IC 13-30-10 that are consistent with the minimum requirements for the department of environmental management delegated state programs.

(3) Submit its final report before November 1, 2008, to:

(A) the governor;

(B) the executive director of the legislative services agency in an electronic format under IC 5-14-6; and

(C) the environmental quality service council.

(h) The legislative services agency shall provide staff support to the task force.

(i) The task force shall operate under the policies governing study committees adopted by the legislative council.

(j) A quorum of the task force must be present to conduct business. A quorum consists of a majority of the members of the task force. The task force may not take an official action unless the official action has been approved by at least a majority of the members of the task force.

(k) This SECTION expires January 1, 2009.

SECTION 35. [EFFECTIVE UPON PASSAGE] **IC 13-30-10-1, as amended by this act, and IC 13-30-10-1.5, as added by this act, apply only to crimes committed on or after the effective date of this SECTION.**

SECTION 36. **An emergency is declared for this act.**

P.L.115-2008
[S.72. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning state offices and benefits.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-8.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a) The individual elected as treasurer of state shall take office on January 1 following the individual's election.**

(b) The treasurer of state and ~~his~~ **the treasurer's** deputy treasurers shall each give bond in an amount determined by the auditor of state and the governor. The bond shall be conditioned on the faithful performance of the duties as treasurer of state and deputy treasurer, respectively. The bond must be procured from a surety company authorized by law to transact business in this state.

SECTION 2. IC 5-10-10-4, AS AMENDED BY P.L.2-2007, SECTION 84, AS AMENDED BY P.L.132-2007, SECTION 4, AND AS AMENDED BY P.L.227-2007, SECTION 56, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.
(2) A county sheriff.
(3) A county police officer.
(4) A correctional officer.
(5) An excise police officer.
(6) A county police reserve officer.
(7) A city police reserve officer.
(8) A conservation enforcement officer.
(9) A town marshal.
(10) A deputy town marshal.

(11) A probation officer.

(12) A state ~~*university, college, or junior college*~~ *educational institution* police officer appointed under ~~*IC 20-12-3.5.*~~ *IC 21-39-4.*

(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

(14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(15) A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

(17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(18) A gaming agent of the Indiana gaming commission.

(19) A person who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) appointed as a special deputy under IC 36-8-10-10.6.

(20) A school corporation police officer appointed under IC 20-26-16.

~~*(20)*~~ **(21)** *A gaming control officer of the Indiana gaming commission.*

(22) An eligible chaplain who meets the requirements of section 4.7 of this chapter.

SECTION 3. IC 5-10-10-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.7. (a) As used in this section, "eligible chaplain" means an individual who is appointed or officially designated to serve, with or without compensation, as a chaplain of any of the following:**

(1) A law enforcement agency (as defined in IC 4-33-2-11.6).

(2) A full-time police department of a political subdivision (as defined in IC 36-1-2-13).

(3) A full-time fire department of a political subdivision (as defined in IC 36-1-2-13).

(4) A volunteer fire department (as defined in IC 36-8-12-2).

(5) A sheriff's department of a county.

(b) An eligible chaplain who dies as a direct result of personal injury or illness resulting from the eligible chaplain's performance of duties as a chaplain for the agency or department that the eligible chaplain was appointed or officially designated to serve is eligible for a special death benefit from the fund in the same manner as any other public safety officer is eligible for a benefit from the fund.

SECTION 4. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of having:

(1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

(c) In the case of a person whose term of office commences after the election on November 5, 2002, as auditor of state, secretary of state, or treasurer of state, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

(d) This subsection applies to an individual elected to the office of treasurer of state at the election on November 7, 2006. The individual is vested for purposes of this article if the individual is reelected as treasurer of state at the 2010 general election and serves in the office until January 1, 2015.

SECTION 5. IC 5-10.2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) For a member who retires **after June 30, 2008,** with service in more than one (1) retirement fund, the ~~last retirement fund in which the~~ member ~~rendered service~~ **may choose at the time the member files an application for retirement benefits whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. The fund that the member chooses** shall pay the retirement benefits to the member. The pension shall be computed and vested status shall be determined on the basis of combined creditable service. The annuity, if any, shall be computed on the basis of amounts credited to the member in annuity savings accounts in all funds **minus any amount withdrawn by the member under IC 5-10.2-3-6.5.** The funds in which the employee was a member shall pay to the fund responsible for payment of benefits:

(1) the amount credited to ~~him~~ **the member** in the annuity savings account; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

(b) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after June 30, 1980, may choose at ~~his~~ **the member's** retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. If ~~he~~ **the member** chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

SECTION 6. IC 5-10.2-3-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) A member who has earned at least ten (10) years of service in a position covered by

PERF, TRF, or a combination of the two (2) funds may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(C) The number of years of service credit the member intends to purchase.

(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section

403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 **or 6.5** of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 7. IC 5-10.2-3-6.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.2. **(a) This section applies to a member of the Indiana state teachers' retirement fund.**

(b) A member who:

(1) has attained vested status in the fund;

(2) has terminated employment;

(3) has not begun receiving benefits; and

(4) is transferring creditable service earned under ~~PERF or~~ TRF to another governmental retirement plan under section 1(i) of this chapter;

may suspend the member's membership and withdraw the member's annuity savings account to purchase creditable service in the other governmental retirement plan.

SECTION 8. IC 5-10.2-3-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.5. (a) This section applies after December 31, 2008, to a member of the public employees' retirement fund.**

(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

(1) The member has attained vested status in the fund.

(2) The member terminates employment.

(3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 9. IC 5-10.2-4-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.3. (a) A member who

files an application for retirement benefits must provide the following information on the application form:

(1) The retirement date chosen by the member.

(2) **If the member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5,** whether the member chooses:

(A) an annuity purchased from the amount credited to the member in the annuity savings account;

(B) a total or partial distribution from the annuity savings account under section 2(b) of this chapter; or

(C) a deferral of the payment of any benefits from the annuity savings account under section 2(c) of this chapter.

(3) The name of the beneficiary or beneficiaries designated by the member with respect to the pension portion of the member's retirement benefit.

(4) The name of the beneficiary or beneficiaries designated by the member with respect to the annuity portion of the member's retirement benefit, unless the member chooses total distribution under section 2 of this chapter.

(b) A member's designation of beneficiaries in the application for retirement benefits supersedes any previous designation of beneficiaries by the member.

(c) A member must indicate the name, address, date of birth, and Social Security number of each designated beneficiary and provide proof of birth of each designated beneficiary.

(d) Each board shall adopt a form for the application for retirement benefits that meets the requirements of this section.

SECTION 10. IC 5-10.2-4-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.9. (a) This section applies only to a member of the public employees' retirement fund:**

(1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) whose term of office as a state officer commenced after the election held on November 5, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.

SECTION 11. IC 5-10.2-4-2, AS AMENDED BY P.L.62-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Unless a member elects otherwise under this section **or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5,** the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. **If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i).**

(b) **If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5,** a member may choose at retirement or upon a disability retirement to

receive a distribution of:

(1) the entire amount credited to the member in the annuity savings account; or

(2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), **if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5,** a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection,

the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date. However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 12. IC 5-10.2-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on ~~his~~ **the member's** retirement date.

Expressed mathematically:

p = (.011) times (aac) times (scr)

(c) Unless the member:

(1) has chosen a lump sum payment under section ~~2~~ **2(b)** of this chapter; ~~or~~

(2) has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5; or

(3) elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter;

the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 13. IC 5-10.2-4-7, AS AMENDED BY HEA 1065-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. **A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.**

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity

purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

SECTION 14. IC 5-13-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), investments under this chapter may be made only in securities having a stated final maturity of two (2) years or less from the date of purchase.

(b) The treasurer of state may make investments in securities having a final maturity or redemption date that is more than two (2) years and not more than five (5) years after the date of purchase or subscription. After an investment is made under this subsection, the total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the treasurer of state. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the treasurer of state causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%). The treasurer of state may contract with federally regulated investment advisers and other institutional money managers to make investments under this section. ~~This subsection expires July 1, 2007.~~

(c) Unless prohibited under federal law, the treasurer of state shall invest under subsection (b) the funds of the transportation corridor fund established by IC 8-4.5-3-7. The treasurer of state may invest other funds held by the state in compliance with subsection (b). ~~This subsection expires July 1, 2007.~~

SECTION 15. [EFFECTIVE UPON PASSAGE] **Actions taken after June 30, 2007, and before the passage of this act that would have been valid under IC 5-13-10.5-3, as amended by this act, are legalized and validated.**

SECTION 16. **An emergency is declared for this act.**

P.L.116-2008
[S.157. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-7-2-135.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 135.6. "Opioid treatment program" means a program through which opioid agonist medication is dispensed to an individual in the treatment of opiate addiction and for which certification is required under 42 CFR Part 8.**

SECTION 2. IC 12-23-18-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. (a) An opioid treatment program shall not operate in Indiana unless:**

(1) the opioid treatment program is specifically approved and the opiate treatment facility is certified by the division; and

(2) the opioid treatment program is in compliance with state and federal law.

(b) Separate specific approval and certification under this chapter is required for each location at which an opioid treatment program is operated.

SECTION 3. IC 12-23-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Subject to federal law and consistent with standard medical practice in ~~methadone~~ **opioid** treatment of drug abuse, the division shall adopt rules under IC 4-22-2 to establish and administer ~~a methadone~~ **an opioid treatment** diversion control and oversight program to identify individuals who divert ~~controlled substances~~ **opioid treatment medications** from legitimate treatment use and to terminate the ~~methadone~~ **opioid** treatment of those individuals.

(b) Rules adopted under subsection (a) must include provisions

relating to the following matters concerning ~~methadone providers~~ **opioid treatment programs** and ~~individuals~~ **patients** who receive **opioid** treatment:

(1) Regular clinic attendance by the patient.

(2) Specific counseling requirements for the ~~methadone provider~~ **opioid treatment program.**

(3) Serious behavior problems of the patient.

(4) Stable home environment of the patient.

(5) Safe storage capacity of **opioid** treatment medications within the patient's home.

(6) Medically recognized testing protocols to determine legitimate **opioid** treatment **medication** use.

(7) The ~~methadone provider's~~ **opioid treatment program's** medical director and administrative staff responsibilities for preparing and implementing a diversion control plan.

SECTION 4. IC 12-23-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Not later than February 28 of each year, each ~~methadone provider~~ **opioid treatment program** must submit to the division a diversion control plan ~~required under~~ **that:**

(1) meets the requirements of section ~~1(b)(7)~~ **1** of this chapter; **and**

(2) includes in the opioid treatment program's diversion control plan the program's drug testing procedure for testing a patient during the patient's treatment by the program as required by section 2.5 of this chapter.

(b) Not later than May 1 of each year, the division shall review and approve ~~plans~~ **a plan** submitted under subsection (a).

(c) If the division denies a plan submitted under subsection (a), the ~~methadone provider~~ **opioid treatment program** must submit another plan not later than sixty (60) days after the denial of the plan.

SECTION 5. IC 12-23-18-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) An opioid treatment program must periodically and randomly test, including before receiving treatment, a patient for the following during the patient's treatment by the program:**

(1) Methadone.

(2) Cocaine.

(3) Opiates.

(4) Amphetamines.

(5) Barbiturates.

(6) Tetrahydrocannabinol.

(7) Benzodiazepines.

(8) Any other suspected or known drug that may have been abused by the patient.

(b) If a patient tests positive under a test described in subsection (a) for:

(1) a controlled substance other than a drug for which the patient has a prescription or that is part of the patient's treatment plan at the opioid treatment program; or

(2) an illegal drug other than the drug that is part of the patient's treatment plan at the opioid treatment program;

the opioid treatment program and the patient must comply with the requirements under subsection (c).

(c) If a patient tests positive under a test for a controlled substance or illegal drug that is not allowed under subsection (b), the following conditions must be met:

(1) The opioid treatment program must refer the patient to the onsite physician for a clinical evaluation that must be conducted not more than ten (10) days after the date of the patient's positive test. The physician shall consult with medical and behavioral staff to conduct the evaluation. The clinical evaluation must recommend a remedial action for the patient that may include discharge from the opioid treatment program or amending the treatment plan to require a higher level of supervision.

(2) The opioid treatment program may not allow the patient to take any opioid treatment medications from the treatment facility until the patient has completed a clinical assessment under subdivision (1) and has passed a random test. The patient must report to the treatment facility daily, except when the facility is closed, until the onsite physician, after consultation with the medical and behavioral staff, determines that daily treatment is no longer necessary.

(3) The patient must take a weekly random test until the patient passes a test under subsection (b).

(d) An opioid treatment program must conduct all tests required under this section in an observed manner to assure that a false sample is not provided by the patient.

SECTION 6. IC 12-23-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) By May 15 of each year, each ~~methadone provider~~ **opioid treatment program** shall submit to the division a fee ~~of: twenty dollars ($20) for each nonresident, patient~~ **that is:**

(1) an amount established by the division by rule under IC 4-22-2;

(2) not more than necessary to recover the costs of administering this chapter; and

(3) not more than seventy-five dollars ($75) for each opioid treatment program patient who was treated by the ~~methadone provider~~ **opioid treatment program** during the preceding ~~calender~~ **calendar** year.

(b) The fee collected under subsection (a) shall be deposited in the ~~methadone diversion control and oversight program~~ fund. ~~established under section 4 of this chapter.~~

SECTION 7. IC 12-23-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section, "fund" means the ~~methadone diversion control and oversight~~ **opioid treatment** program fund established under subsection (b).

(b) The ~~methadone diversion control and oversight~~ **opioid treatment** program fund is established to ~~administer and carry out the purposes of~~ **implement** this chapter. The fund shall be administered by the division.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest money in the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

SECTION 8. IC 12-23-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a) The division shall adopt rules under IC 4-22-2 to establish the following:**

(1) Standards for operation of an opioid treatment program in Indiana, including the following requirements:

(A) An opioid treatment program shall obtain prior authorization from the division for any patient receiving more than fourteen (14) days of opioid treatment medications at one (1) time.

(B) Minimum requirements for a licensed physician's regular:

(i) physical presence in the opioid treatment facility; and

(ii) physical evaluation and progress evaluation of each opioid treatment program patient.

(C) Minimum staffing requirements by licensed and unlicensed personnel.

(D) Clinical standards for the appropriate tapering of a patient on and off of an opioid treatment medication.

(2) A requirement that, not later than February 28 of each year, a current diversion control plan that meets the requirements of 21 CFR Part 291 and 42 CFR Part 8 be submitted for each opioid treatment facility.

(3) Fees to be paid by an opioid treatment program for deposit in the fund for annual certification under this chapter as described in section 3 of this chapter.

The fees established under this subsection must be sufficient to pay the cost of implementing this chapter.

(b) The division shall conduct an annual onsite visit of each ~~methadone provider~~ **opioid treatment program facility** to assess compliance with ~~the plan approved under~~ this chapter.

SECTION 9. IC 12-23-18-5.5, AS ADDED BY P.L.210-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.5. ~~(a)~~ The division may not grant specific approval to be a new opioid treatment program. This section does not apply to applications for new opioid treatment programs pending prior to March 1, 2007.

~~(b) This section expires December 31, 2008.~~

SECTION 10. IC 12-23-18-5.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.6. (a) The division shall establish a central registry to maintain information concerning each patient served by an opioid treatment program.**

(b) An opioid treatment program shall, at least monthly, provide

to the division information required by the division concerning patients currently served by the opioid treatment program.

(c) Information that could be used to identify an opioid treatment program patient and that is:

(1) contained in; or

(2) provided to the division and related to;

the central registry is confidential.

SECTION 11. IC 12-23-18-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.7. (a) The division shall, as part of the biennial report required under IC 12-21-5-1.5(8), prepare and submit to the legislative council in an electronic format under IC 5-14-6, the state department of health, and the governor a report concerning treatment offered by opioid treatment programs. The report must contain the following information for each of the two (2) previous calendar years:**

(1) The number of opioid treatment programs in Indiana.

(2) The number of patients receiving opioid treatment in Indiana.

(3) The length of time each patient received opioid treatment and the average length of time all patients received opioid treatment.

(4) The cost of each patient's opioid treatment and the average cost of opioid treatment.

(5) The number of patients who were determined to be no longer in need of services and are no longer receiving opioid treatment.

(6) The number of individuals, by geographic area, who are on a waiting list to receive opioid treatment.

(7) The patient information reported to the central registry established under section 5.6 of this chapter.

(8) Any other information that the division determines to be relevant to the success of a quality opioid treatment program.

(9) The number of patients who tested positive under a test for a controlled substance or illegal drug not allowed under section 2.5(b) of this chapter.

(b) Each opioid treatment program in Indiana shall provide information requested by the division for the report required by this section.

(c) Failure of an opioid treatment program to submit the information required under subsection (a) may result in suspension or termination of the opioid treatment program's specific approval to operate as an opioid treatment program or the opioid treatment facility's certification.

(d) Information that could be used to identify an opioid treatment program patient and that is:

(1) contained in; or

(2) provided to the division related to;

the report required by this section is confidential.

SECTION 12. IC 12-23-18-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.8. (a) The director of the division may take any of the following actions based on any grounds described in subsection (b):**

(1) Issue a letter of correction.

(2) Reinspect an opioid treatment program facility.

(3) Deny renewal of, or revoke, any of the following:

(A) Specific approval to operate as an opioid treatment program.

(B) Certification of an opioid treatment facility.

(4) Impose a civil penalty in an amount not to exceed ten thousand dollars ($10,000).

(b) The director of the division may take action under subsection (a) based on any of the following grounds:

(1) Violation of this chapter or rules adopted under this chapter.

(2) Permitting, aiding, or abetting the commission of any illegal act in an opioid treatment program facility.

(3) Conduct or practice found by the director to be detrimental to the welfare of an opioid treatment program patient.

(c) IC 4-21.5 applies to an action under this section.

SECTION 13. IC 12-23-18-6 IS REPEALED [EFFECTIVE JULY 1, 2008].

P.L.117-2008
[S.164. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-7-2-134 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 134. "Office" means the following:

(1) Except as provided in subdivisions (2) ~~and (3),~~ **through (4),** the office of Medicaid policy and planning established by IC 12-8-6-1.

(2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.

(3) For purposes of IC 12-15-13, the meaning set forth in IC 12-15-13-0.4.

~~(3)~~ **(4)** For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-4.

SECTION 2. IC 12-15-13-0.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.4. As used in this chapter, "office" includes the following:**

(1) The office of Medicaid policy and planning.

(2) A managed care organization that has contracted with the office of Medicaid policy and planning under this article.

(3) A person that has contracted with a managed care organization described in subdivision (2).

SECTION 3. IC 12-17.6-3-2, AS AMENDED BY P.L.218-2007, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) To be eligible to enroll in the program, a child must meet the following requirements:

(1) The child is less than nineteen (19) years of age.

(2) The child is a member of a family with an annual income of:

(A) more than one hundred fifty percent (150%); and

(B) not more than:

(i) three hundred percent (300%); **or**

(ii) the maximum percentage approved by the federal Centers for Medicare and Medicaid Services if the approved amount is less than three hundred percent (300%);

of the federal income poverty level.

(3) The child is a resident of Indiana.

(4) The child meets all eligibility requirements under Title XXI of the federal Social Security Act.

(5) The child's family agrees to pay any cost sharing amounts required by the office.

(b) The office may adjust eligibility requirements based on available program resources under rules adopted under IC 4-22-2.

SECTION 4. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) As used in this SECTION, "plan" refers to the Indiana check-up plan established by IC 12-15-44.2.

(c) As used in this SECTION, "qualified individual" refers to an individual who meets all of the Indiana check-up plan requirements under IC 12-15-44.2-9 except for the household income limitation set forth in IC 12-15-44.2-9(a)(3).

(d) During the 2008 interim, the commission shall study the feasibility and costs of allowing qualified individuals to participate in the plan if the state does not provide funding for coverage of the qualified individual.

(e) This SECTION expires December 31, 2008.

P.L.118-2008
[S.208. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-22-9.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.7. (a) As used in this section, "current year" refers to the calendar year in which property taxes are first due and payable and are subject to payment under this section:**

(1) by automatic deduction from a checking account; or

(2) under a monthly installment plan.

(b) As used in this section, "monthly installment plan" means a plan that:

(1) is adopted under this section;

(2) provides for the monthly payment of tax liability; and

(3) does not involve an automatic deduction from a checking account.

(c) As used in this section, "preceding year" refers to the calendar year that immediately precedes the current year.

(d) As used in this section, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(e) After June 30, 2009, the county fiscal body (as defined in IC 36-1-2-6) may at any time adopt an ordinance to allow all county taxpayers to pay one (1) or more installments of property taxes by any combination of the following:

(1) Automatic monthly deductions from a checking account.

(2) Payments under a monthly installment plan.

(f) An ordinance adopted under subsection (e):

(1) may apply to more than one (1) calendar year; and

(2) must include at least the following:

(A) Identification of the property tax installment or installments for which payment:

(i) by automatic deduction from a checking account; or

(ii) under a monthly installment plan;

is authorized.

(B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments:

(i) by automatic deduction from a checking account; or

(ii) under a monthly installment plan.

(C) Authority for the county treasurer to make available to county taxpayers a form to be completed by a taxpayer and submitted to the county treasurer to:

(i) direct the county treasurer to accept payment of the taxpayer's property taxes by automatic deduction from a checking account; and

(ii) authorize the institution that holds the taxpayer's checking account to deduct monthly the appropriate amount from the account and to pay that amount to the county treasurer.

However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic deductions from a checking account.

(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes under a monthly installment plan. However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by monthly installment payments under a monthly installment plan.

An ordinance adopted under subsection (e) may include a provision authorizing taxpayers to make monthly deductions or monthly installment payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (h), (i), (j), or (k).

(g) If an ordinance is adopted under subsection (e) to allow taxpayers to pay property taxes by automatic deductions from a checking account, the county treasurer shall provide to each county taxpayer that submits to the county treasurer the form

referred to in subsection (f)(2)(C) a statement that includes at least the following:

(1) The amount to be deducted monthly from the taxpayer's checking account.

(2) Identification of the day each month, as chosen by the taxpayer, when the deduction will be made.

(3) A calculation of the amount to be deducted.

(4) An explanation of the manner in which property taxes for the current year will be reconciled under subsection (n) and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's checking account will be taken into account in the reconciliation.

(5) An explanation of the penalties that apply if there are insufficient funds in the taxpayer's checking account to cover one (1) or more automatic deductions.

(h) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has not been determined. Subject to subsections (i) and (j), the county treasurer shall do the following:

(1) Determine the following:

(A) For a parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.

(B) For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.

(C) For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.

(D) For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly deduction from the taxpayer's checking account or the amount due under a monthly installment plan in the amount determined in the last

STEP of the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

STEP TWO: Determine the quotient of:

(i) the number of property tax installments for the current year identified in the ordinance under subsection (f)(2)(A); divided by

(ii) the total number of property tax installments for the current year.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Determine the quotient of:

(i) the STEP THREE result; divided by

(ii) the number of monthly deductions or, in the case of payments under a monthly installment plan, the number of monthly installments.

(i) The county treasurer may determine the monthly deduction or the amount of the monthly installment due under a monthly installment plan in an amount different from the amount determined under subsection (h) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (h) to differ substantially from the tax liability likely to be determined for the current year.

(j) This subsection applies only if before an ordinance is adopted under subsection (e) the county treasurer determines to use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the monthly deduction from the taxpayer's checking account or the amount of the taxpayer's monthly installment payment under a monthly installment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (h) the tax liability to be indicated on the provisional statement.

(k) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has been determined. The amount of the monthly deduction from the taxpayer's checking account or the amount of the taxpayer's monthly installment payment under a monthly installment plan is

the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance under subsection (f)(2)(A) divided by the number of monthly deductions.

(l) Tax liability paid under this section by automatic deduction from a checking account is not finally discharged and the person has not paid the tax until the taxpayer's checking account is charged for the payment.

(m) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable by automatic deduction from a checking account or by monthly installment payments under a monthly installment plan under this section.

(n) After the last monthly checking account deduction or last monthly installment payment under a monthly installment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined, the county treasurer shall issue a reconciling statement to the taxpayer. Each reconciling statement must indicate at least the following:

(1) The sum of:

(A) the taxpayer's actual tax liability for the current year; plus

(B) any penalty that applies for the current year.

(2) The total amount paid for the current year by automatic deductions, monthly installment payments under a monthly installment plan, and by means other than automatic deductions or monthly installment payments.

(3) If the amount under subdivision (1) exceeds the amount under subdivision (2), the deficiency is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than thirty (30) days after the date of the reconciling statement.

(4) If the amount under subdivision (2) exceeds the amount under subdivision (1), that the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(o) The county auditor shall distribute tax collections under this section to the appropriate taxing units at the semiannual

settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.

(p) IC 6-1.1-15:

(1) does not apply to a statement provided under subsection (g); and

(2) applies to a reconciling statement issued under subsection (n).

(q) The following apply to a taxpayer that makes automatic monthly deductions or monthly installments under this section:

(1) If a taxpayer makes automatic monthly deductions or monthly installments of property taxes in the amount determined by the county treasurer under subsection (h), (i), (j), or (k), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If a taxpayer:

(A) makes automatic monthly deductions or monthly installments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k); and

(B) the total amount of property taxes paid by the taxpayer under automatic monthly deductions, monthly installments, or any other method by the May or November due date is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k) that should have been paid by the taxpayer for the May or November due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.

(r) IC 6-1.1-37-10 applies to any amounts due under a reconciling statement issued under subsection (n) that are not paid within thirty (30) days after the date of the reconciling statement, as required under subsection (n)(3).

(s) For purposes of IC 6-1.1-24-1(a)(1):

(1) property taxes to be paid by automatic deduction or by monthly installments under a monthly installment plan under this section before June of the current year are considered to be the taxpayer's spring installment of property taxes; and

(2) payment on a reconciling statement issued under subsection (n) is considered to be due before the due date of the first installment of property taxes payable in the year immediately following the current year.

SECTION 2. IC 6-1.1-22.5-6, AS AMENDED BY P.L.67-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Except as provided in subsection (c), with respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

(1) in the form prescribed by the department of local government finance; and

(2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) does not apply if the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b).

(d) This subsection applies after June 30, 2009. Immediately upon determining to use provisional statements under subsection (a), the county treasurer shall give notice of the determination to the county fiscal body (as defined in IC 36-1-2-6).

P.L.119-2008
[S.258. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning criminal law and corrections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 11-8-8-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.2. As used in this chapter, "electronic chat room username" means an identifier that allows a person to communicate over the Internet in real time using typed text.**

SECTION 2. IC 11-8-8-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.4. As used in this chapter, "electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.**

SECTION 3. IC 11-8-8-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.6. As used in this chapter, "instant messaging username" means an identifier that allows a person to communicate over the Internet in real time using typed text.**

SECTION 4. IC 11-8-8-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.8. As used in this chapter, "social networking web site username" means an identifier or profile that allows a person to create, use, or modify a social networking web site, as defined in IC 35-42-4-12.**

SECTION 5. IC 11-8-8-7, AS AMENDED BY P.L.216-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex or violent offender who resides in Indiana. A sex or

violent offender resides in Indiana if either of the following applies:

(A) The sex or violent offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex or violent offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex or violent offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding seven (7) consecutive days; or

(B) for a total period exceeding fourteen (14) days;

during any calendar year in Indiana regardless of whether the sex or violent offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex or violent offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or postsecondary educational institution.

(b) Except as provided in subsection (e), a sex or violent offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex or violent offender resides. If a sex or violent offender resides in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county in which the sex or violent offender resides. If the sex or violent offender is also required to register under subsection (a)(2) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex or violent offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex or violent offender is or intends to be employed or carry on a vocation. If a sex or violent offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the

offender is required to register under subsection (b) or (d).

(d) A sex or violent offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex or violent offender is enrolled or intends to be enrolled as a student. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(2), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex or violent offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex or violent offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex or violent offender committed to the department shall register with the department before the sex or violent offender is released from incarceration. The department shall forward the sex or violent offender's registration information to the local law enforcement authority of every county in which the sex or violent offender is required to register.

(g) This subsection does not apply to a sex or violent offender who is a sexually violent predator. A sex or violent offender not committed to the department shall register not more than seven (7) days after the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sex or violent offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72)

hours after the sex or violent offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex or violent offender who is a sexually violent predator. A sex or violent offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex or violent offender registers under this section shall make and publish a photograph of the sex or violent offender on the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex or violent offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex or violent offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5.

(j) When a sex or violent offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;

(2) notify every law enforcement agency having jurisdiction in the county where the sex or violent offender resides; and

(3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

When a sex or violent offender from a jurisdiction outside Indiana registers a change of address, **electronic mail address, instant messaging username, electronic chat room username, social networking web site username,** employment, vocation, or enrollment in Indiana, the local law enforcement authority shall provide the department with the information provided by the sex or violent offender during registration.

SECTION 6. IC 11-8-8-8, AS AMENDED BY P.L.216-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a)** The registration required under this chapter must include the following information:

(1) The sex or violent offender's full name, alias, any name by which the sex or violent offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification card number, vehicle description and vehicle plate number for any vehicle the sex or violent offender owns or operates on a regular basis, principal residence address, other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period, and mailing address, if different from the sex or violent offender's principal residence address.

(2) A description of the offense for which the sex or violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex or violent offender's employers in Indiana, the name and address of

each campus or location where the sex or violent offender is enrolled in school in Indiana, and the address where the sex or violent offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex or violent offender.

(5) If the sex or violent offender is a sexually violent predator, that the sex or violent offender is a sexually violent predator.

(6) If the sex or violent offender is required to register for life, that the sex or violent offender is required to register for life.

(7) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use.

~~(7)~~ **(8)** Any other information required by the department.

(b) If the sex or violent offender registers any information under subsection (a)(7), the offender shall sign a consent form authorizing the:

(1) search of the sex or violent offender's personal computer or device with Internet capability, at any time; and

(2) installation on the sex or violent offender's personal computer or device with Internet capability, at the sex or violent offender's expense, of hardware or software to monitor the sex or violent offender's Internet usage.

SECTION 7. IC 11-8-8-11, AS AMENDED BY P.L.216-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) If a sex or violent offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex or violent offender stays in Indiana;

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal address or location not more than seventy-two (72) hours after the address change.

(b) If a sex or violent offender moves to a new county in Indiana, the local law enforcement authority where the sex or violent offender's

current principal residence address is located shall inform the local law enforcement authority in the new county in Indiana of the sex or violent offender's residence and forward all relevant registration information concerning the sex or violent offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex or violent offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex or violent offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent offender's principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school, the sex or violent offender shall report in person:

(1) to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school; and

(2) if the sex or violent offender changes the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school;

not more than seventy-two (72) hours after the change.

(d) If a sex or violent offender moves the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school shall inform the local law enforcement authority in the new county of the sex or violent offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex or violent offender moves the sex or violent offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex or violent offender's new place of residence,

employment, vocation, or enrollment.

(f) If a sex or violent offender who is required to register under this chapter changes or obtains a new:

(1) electronic mail address;

(2) instant messaging username;

(3) electronic chat room username; or

(4) social networking web site username;

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and shall provide the local law enforcement authority with the new address or username not more than seventy-two (72) hours after the change or creation of the address or username.

~~(f)~~ **(g)** A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex or violent offender.

~~(g)~~ **(h)** A local law enforcement authority who is notified of a change under subsection (a), ~~or~~ (c), **or (f)** shall:

(1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;

(2) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS); and

(3) notify the department.

~~(h)~~ **(i)** If a sex or violent offender who is registered with a local law enforcement authority becomes incarcerated, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

~~(i)~~ **(j)** If a sex or violent offender is no longer required to register due to the expiration of the registration period, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

SECTION 8. IC 11-8-8-19, AS AMENDED BY P.L.216-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex or violent offender is required to register under this chapter until the expiration of ten (10) years after the date the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

(3) is placed in a community corrections program;

(4) is placed on parole; or

(5) is placed on probation;

for the sex or violent offense requiring registration, whichever occurs last. **The registration period is tolled during any period that the sex or violent offender is incarcerated. The registration period does not restart if the offender is convicted of a subsequent offense; however, if the subsequent offense is a sex or violent offense, a new registration period may be imposed in accordance with this chapter.** The department shall ensure that an offender who is no longer required to register as a sex or violent offender is notified that the obligation to register has expired.

(b) A sex or violent offender who is a sexually violent predator is required to register for life.

(c) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter that the sex or violent offender committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter in which the sex offender:

(1) proximately caused serious bodily injury or death to the victim;

(2) used force or the threat of force against the victim or a member of the victim's family, unless the offense is sexual battery as a Class D felony; or

(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex or violent offender who is convicted of at least two (2) unrelated offenses under section 5(a) of this chapter is required to register for life.

(f) A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer.

SECTION 9. IC 11-10-12-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. (a) The department, during the ninety (90) days before a committed offender is:**

(1) released on parole;

(2) assigned to a community transition program;

(3) discharged from the department; or

(4) released on probation;

shall allow the committed offender to have Internet access to use web sites that contain employment information in accordance with rules adopted by the department.

(b) The department shall provide employment counseling and Internet assistance to a committed offender who qualifies for Internet access under subsection (a), by a person trained in employment counseling and the use of Internet employment services.

(c) The department may restrict Internet access for a committed offender under subsection (a) if the committed offender:

(1) has a warrant or detainer seeking transfer of the person to a county or another jurisdiction;

(2) is no longer within ninety (90) days of release due to loss of credit time, or the imposition of an additional criminal sentence;

(3) does not reside in a department facility; or

(4) has engaged in misconduct involving use of the Internet.

SECTION 10. IC 11-13-3-4, AS AMENDED BY P.L.216-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a

written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; ~~and~~

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the

parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 11. IC 11-13-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 9. Rehabilitation Based Discharge for Long Term Inmates

Sec. 1. This chapter does not apply to the following:

(1) An inmate who receives a sentence of death or life without parole under IC 35-50-2.

(2) An inmate who has committed an offense described in IC 11-8-8-4.5.

(3) A person convicted of a crime of violence (as defined in IC 35-50-1-2).

Sec. 2. Notwithstanding any other law, as soon as practicable after an inmate has been confined to the custody of the department for twenty-five (25) consecutive years, the department shall:

(1) identify the inmate to the parole board; and

(2) provide the parole board with the inmate's offender progress report.

Sec. 3. Upon receipt of the material described in section 2 of this chapter, the parole board shall set a hearing to determine whether the circumstances warrant the inmate's discharge from the custody of the department.

Sec. 4. The parole board shall consider all relevant factors in determining whether the inmate is to be discharged under this chapter and must consider a community investigation report submitted to the parole board. The parole board shall give special consideration to an inmate who demonstrates each of the following:

(1) A good conduct history during confinement.

(2) Proof that the inmate will have suitable living quarters in a community if the inmate is discharged.

(3) Proof that one (1) or more employers in the area in which the inmate would reside if discharged have offered to employ the inmate for at least thirty (30) hours a week on the same terms as the employer employs other employees.

(4) Proof that the inmate:

(A) is at least a high school graduate; or

(B) has obtained:

(i) a general equivalency degree; or

(ii) a state of Indiana general educational development (GED) diploma.

Sec. 5. (a) If the parole board determines that the inmate:

(1) has been properly rehabilitated; and

(2) has suitable plans to carry out if discharged;

the parole board shall discharge the inmate from the custody of the department. An inmate who is released from confinement under this subsection must be placed on parole as described in subsection (b).

(b) An inmate who is discharged from the department under this section shall be placed on parole as follows:

(1) An inmate who is required to be placed on parole for the remainder of the inmate's life under IC 35-50-6-1(e) shall be placed on parole for the remainder of the inmate's life.

(2) An inmate who is:

(A) not an inmate described in subdivision (1); and

(B) not required to serve a period of probation;

shall be placed on parole for two (2) years.

Sec. 6. If the parole board denies an inmate's request to be discharged under this chapter, the inmate may petition for a new review not earlier than one (1) year after the parole board denies the request.

Sec. 7. The parole board or the department shall notify a registered crime victim in accordance with IC 11-8-7-2 if an inmate is discharged under this chapter.

Sec. 8. The department shall transmit the materials described in section 2 of this chapter to the legislative council in an electronic format under IC 5-14-6.

Sec. 9. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 12. IC 20-30-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5.5. Internet Safety

Sec. 1. Each school corporation shall include in the school corporation's curriculum for grades 3 and above instruction concerning safe usage of the Internet by children.

Sec. 2. The:

(1) department shall develop guidelines; and

(2) state board shall adopt rules under IC 4-22-2;

concerning the instruction required under this chapter to assist teachers assigned to teach the material described in this chapter.

Sec. 3. Guidelines and rules adopted under section 2 of this chapter must cover:

(1) safe online communication;

(2) privacy protection;

(3) cyberbullying;

(4) viewing inappropriate material;

(5) file sharing;

(6) the importance of open communication with responsible adults; and

(7) any other matters that the department or the state board finds will assist children in using the Internet safely.

SECTION 13. IC 34-24-1-1, AS AMENDED BY P.L.137-2007,

SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-4.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of

IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, ~~used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.~~ **including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.**

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(2) IC 35-48-4-1.1 (dealing in methamphetamine).

(3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Class A felony, Class B felony, or Class C felony.

(7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class

A felony, Class B felony, or Class C felony.

(8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

(e) A motor vehicle operated by a person who is not:

(1) an owner of the motor vehicle; or

(2) the spouse of the person who owns the motor vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

SECTION 14. IC 35-38-1-7.1, AS AMENDED BY P.L.213-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court may consider the following aggravating circumstances:

(1) The harm, injury, loss, or damage suffered by the victim of an offense was:

(A) significant; and

(B) greater than the elements necessary to prove the commission of the offense.

(2) The person has a history of criminal or delinquent behavior.

(3) The victim of the offense was less than twelve (12) years of age or at least sixty-five (65) years of age at the time the person committed the offense.

(4) The person:

(A) committed a crime of violence (IC 35-50-1-2); and

(B) knowingly committed the offense in the presence or within hearing of an individual who:

(i) was less than eighteen (18) years of age at the time the person committed the offense; and

(ii) is not the victim of the offense.

(5) The person violated a protective order issued against the person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person.

(6) The person has recently violated the conditions of any probation, parole, pardon, community corrections placement, or

pretrial release granted to the person.

(7) The victim of the offense was:

(A) a person with a disability (as defined in IC 27-7-6-12), and the defendant knew or should have known that the victim was a person with a disability; or

(B) mentally or physically infirm.

(8) The person was in a position having care, custody, or control of the victim of the offense.

(9) The injury to or death of the victim of the offense was the result of shaken baby syndrome (as defined in IC 16-41-40-2).

(10) The person threatened to harm the victim of the offense or a witness if the victim or witness told anyone about the offense.

(11) The person:

(A) committed trafficking with an inmate under IC 35-44-3-9; and

(B) is an employee of the penal facility.

(b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.

(3) The victim of the crime induced or facilitated the offense.

(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.

(5) The person acted under strong provocation.

(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.

(7) The person is likely to respond affirmatively to probation or short term imprisonment.

(8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.

(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.

(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.

(c) The criteria listed in subsections (a) and (b) do not limit the matters that the court may consider in determining the sentence.

(d) A court may impose any sentence that is:

(1) authorized by statute; and

(2) permissible under the Constitution of the State of Indiana;

regardless of the presence or absence of aggravating circumstances or mitigating circumstances.

SECTION 15. IC 35-38-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a)** If a convicted person is sentenced to a term of imprisonment, the court shall send a copy of:

(1) the presentence report;

(2) any presentence memorandum filed by the convicted person;

(3) the report of any physical or mental examination made incident to the question of sentence; ~~and~~

(4) any record made under IC 35-35-2 **or IC 35-35-3;**

(5) the abstract of judgment;

(6) the judgment of conviction; and

(7) the sentencing order;

to the department of correction.

(b) Copies of the information sent to the department of correction under subsection (a) may be sent through any electronic means approved by the department of correction.

SECTION 16. IC 35-38-2-2.2, AS AMENDED BY P.L.216-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.2. As a condition of probation for a sex offender (as defined in IC 11-8-8-4.5), the court shall:

(1) require the sex offender to register with the local law enforcement authority under IC 11-8-8; ~~and~~

(2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7), **as measured from the property line of the sex offender's**

residence to the property line of the school property, for the period of probation, unless the sex offender obtains written approval from the court;

(3) require the sex offender to consent:

(A) to the search of the sex offender's personal computer at any time; and

(B) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(4) prohibit the sex offender from:

(A) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(B) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by clause (A).

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.

SECTION 17. IC 35-38-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) When a convicted person is sentenced to imprisonment, the court shall, without delay, certify, under the seal of the court **or through any electronic means approved by the department of correction,** copies of the judgment of conviction and sentence to the receiving authority.

(b) The judgment must include:

(1) the crime for which the convicted person is adjudged guilty and the classification of the criminal offense;

(2) the period, if any, for which the person is rendered incapable of holding any office of trust or profit;

(3) the amount of the fines or costs assessed, if any, whether or not the convicted person is indigent, and the method by which the fines or costs are to be satisfied;

(4) the amount of credit, including credit time earned, for time

spent in confinement before sentencing; and

(5) the amount to be credited toward payment of the fines or costs for time spent in confinement before sentencing.

(c) The judgment may specify the degree of security recommended by the court.

(d) A term of imprisonment begins on the date sentence is imposed, unless execution of the sentence is stayed according to law.

SECTION 18. IC 35-42-4-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. (a) This section does not apply to a person to whom all of the following apply:**

(1) The person is not more than:

(A) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(B) five (5) years older than the victim if the offense was committed before July 1, 2007.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

(1) found to be a sexually violent predator under

IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Possession of child pornography (IC 35-42-4-4(c)).

(D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).

(E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

(I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).

(J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

(c) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program.

(d) As used in this section, "social networking web site" means an Internet web site that:

(1) facilitates the social introduction between two (2) or more persons;

(2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;

(3) allows a member to create a web page or a personal profile; and

(4) provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

(e) A person described in subsection (b) who knowingly or

intentionally uses:

(1) a social networking web site; or

(2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

(f) It is a defense to a prosecution under this section that the person:

(1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and

(2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program.

SECTION 19. IC 35-42-4-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) This section does not apply to the following:**

(1) A parent, guardian, or custodian of a child.

(2) A person who acts with the permission of a child's parent, guardian, or custodian.

(3) A person to whom a child makes a report of abuse or neglect.

(4) A person to whom a child reports medical symptoms that relate to or may relate to sexual activity.

(b) As used in this section, "sexual activity" means sexual intercourse, deviate sexual conduct, or the fondling or touching of the buttocks, genitals, or female breasts.

(c) A person at least twenty-one (21) years of age who knowingly or intentionally communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)).

SECTION 20. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 11-13-3-4(j), the parole board is not required to require a parolee who is a sexually violent predator under IC 35-38-1-7.5 to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location unless the parolee was released to parole after June 30, 2009.**

(b) The parole board may require a parolee described in subsection (a) to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, even if the parolee was released to parole before July 1, 2009.

(c) This SECTION expires January 1, 2010.

SECTION 21. [EFFECTIVE JULY 1, 2008] **IC 35-38-1-7.1, as amended by this act, and IC 35-42-4-12 and IC 35-52-4-13, both as added by this act, apply only to crimes committed after June 30, 2008.**

P.L.120-2008
[S.314. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-14-1.5-6.1, AS AMENDED BY HEA 1341-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, the ports of Indiana, an economic development commission, **the Indiana state department of agriculture,** a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session

other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 2. IC 5-14-3-4, AS AMENDED BY HEA 1341-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a

public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, **the Indiana state department of agriculture,** the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely

represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under

personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1

or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a

reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) the victim of a crime; or

(iii) a family member of a correctional officer or the victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the

ordinary course of business.

SECTION 3. IC 5-28-6-2, AS AMENDED BY P.L.1-2006, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The corporation shall develop and promote programs designed to make the best use of Indiana resources to ensure a balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources.

(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

(A) community economic development planning;

(B) implementation of programs designed to further community economic development; and

(C) the development and promotion of Indiana's tourist resources.

(5) Assist the secretary of agriculture and rural development in promoting and marketing of Indiana's agricultural products and provide assistance to the director of the **Indiana state** department of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

(8) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

(A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.

(B) A mechanism on the page whereby the public may request further information online about specific programs or incentives awarded.

(C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Assist in community economic development planning and the implementation of programs designed to further community economic development.

SECTION 4. IC 10-19-8-2, AS AMENDED BY P.L.101-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The council consists of the following members:

(1) The lieutenant governor.

(2) The executive director.

(3) The superintendent of the state police department.

(4) The adjutant general.

(5) The state health commissioner.

(6) The commissioner of the department of environmental management.

(7) The director of the **Indiana state** department of agriculture.

(8) The chairman of the Indiana utility regulatory commission.

(9) The commissioner of the Indiana department of transportation.

(10) The executive director of the Indiana criminal justice institute.

(11) The commissioner of the bureau of motor vehicles.

(12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(13) The speaker of the house of representatives or the speaker's designee.

(14) The president pro tempore of the senate or the president pro tempore's designee.

(15) The chief justice of the supreme court.

(16) The director of the department of natural resources or, if designated by the director, the deputy director who manages the bureau of law enforcement and administration.

(17) The state veterinarian.

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

SECTION 5. IC 14-8-2-67, AS AMENDED BY SEA 190-2008, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 67. (a) "Department", except for purposes of IC 14-32, refers to the department of natural resources.

(b) "Department" for purposes of IC 14-32, refers to the **Indiana state** department of agriculture established by IC 15-11-2-1.

SECTION 6. IC 14-8-2-77, AS AMENDED BY SEA 176-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.

(3) For purposes of IC 14-21, the division of historic preservation and archeology.

(4) For purposes of IC 14-22, the division of fish and wildlife.

(5) For purposes of IC 14-24, the division of entomology and plant pathology.

(6) For purposes of IC 14-25.5, the division of water.

(7) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

(8) For purposes of IC 14-32, the division of soil conservation of the **Indiana state** department of agriculture established by

IC 15-11-4-1.

(9) For purposes of IC 14-37, the division of oil and gas.

SECTION 7. IC 14-22-6-14, AS AMENDED BY SEA 190-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The:

(1) division of fish and wildlife of the department; and

(2) division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1, through the soil and water conservation districts established under IC 14-32;

shall, in cooperation with other conservation education organizations and one (1) or more organizations of hunters, establish a program to help landowners with problems determined by the director to be caused by localized deer population.

(b) The program established under this section must educate landowners concerning the means by which a landowner can:

(1) control; or

(2) obtain assistance in controlling;

the deer population on the landowner's tract of land.

(c) Under the program established under this section, one (1) or more hunters or organizations of hunters may, upon request by a landowner, work with the department and the landowner to alleviate problems caused by localized deer populations.

(d) In each county, the division of fish and wildlife, in cooperation with the soil and water conservation district established within the county under IC 14-32, shall disseminate information about the program established under this section.

SECTION 8. IC 14-24-4.5-13, AS AMENDED BY P.L.1-2006, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The director of the **Indiana state** department of agriculture or the director's designee shall serve as compact administrator for Indiana. The duties of the compact administrator are considered a regular part of the duties of the commissioner of agriculture.

(b) Copies of bylaws and amendments to the compact adopted under section 4(h) of this chapter must be filed with the compact administrator.

SECTION 9. IC 14-24-4.5-14, AS AMENDED BY P.L.1-2006, SECTION 216, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: Sec. 14. Within the meaning of sections 6(b) and 8(a) of this chapter, a request or an application for assistance from the fund may be made by the director of the **Indiana state** department of agriculture or the director's designee whenever the director or director's designee believes the conditions qualifying the state for assistance exist and it would be in the best interest of the state to make a request.

SECTION 10. IC 14-25-14-4, AS ADDED BY P.L.112-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Each of the following state agencies shall designate a representative to advise the task force:

(1) The department.

(2) The department of environmental management.

(3) The department of homeland security.

(4) The **Indiana state** department of agriculture.

(5) The state department of health.

(b) In addition to the representatives set forth in subsection (a), the director may invite representatives of other state and federal agencies as appropriate to advise the task force.

SECTION 11. IC 14-32-2-1, AS AMENDED BY SEA 190-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The soil conservation board is established within the **Indiana state** department of agriculture established by IC 15-11-2-1 as the policy making body for soil and water conservation.

SECTION 12. IC 14-32-2-3, AS AMENDED BY P.L.175-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A majority of the seven (7) appointed members of the board must have experience as district supervisors.

(b) In making appointments to the board, the governor may invite and consider the recommendations of the following:

(1) The Purdue University cooperative extension service.

(2) The **Indiana state** department of agriculture.

(3) The Indiana Association of Soil and Water Conservation Districts.

(c) All appointments to the board shall be made without regard to political affiliation.

(d) The members appointed to the board under section 2(1) and 2(2)

of this chapter must be residents of at least four (4) different geographic regions of Indiana.

SECTION 13. IC 14-32-2-7, AS AMENDED BY P.L.175-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The governor may appoint advisory members from other organizations that promote conservation, including local, state, and federal agencies upon the recommendation of the board.

(b) The governor shall appoint members to the advisory board that represent the following:

(1) The **Indiana state** department of agriculture.

(2) The department of natural resources.

(3) The department of environmental management.

(4) The Purdue University cooperative extension service.

(5) The Indiana Association of Soil and Water Conservation Districts.

(6) The Farm Service Agency of the United States Department of Agriculture.

(7) The Natural Resources Conservation Service of the United States Department of Agriculture.

SECTION 14. IC 14-32-2-8, AS AMENDED BY SEA 190-2008, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The members of the board shall elect a member as the chairman of the board.

(b) The director of the division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1 is the secretary of the board.

SECTION 15. IC 14-32-5-4, AS AMENDED BY SEA 190-2008, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section, "landfill" means a facility where solid waste is to be disposed of through placement on or beneath the surface of the ground. However, the term does not include any of the following:

(1) A land application operation regulated under 327 IAC 6.

(2) A surface impoundment.

(3) An injection well.

(4) A facility for the disposal of solid waste other than sludge from a municipal wastewater treatment plant that is:

(A) generated at the site of the facility; or

(B) generated by the owner or operator of the facility.

(5) An operation permitted under IC 14-34.

(b) As used in this section, "underground injection" means the subsurface emplacement of fluids through:

(1) a bored, drilled, or driven shaft; or

(2) a dug hole, the depth of which is greater than the hole's largest surface dimension.

(c) A district shall inspect every landfill located within the boundaries of the district for compliance with rules adopted under IC 13-18 or IC 13-19 concerning erosion and sediment control. Each landfill shall be inspected under this section at least two (2) times each calendar year as follows:

(1) One (1) time before July 1.

(2) One (1) time after June 30 and before December 31.

(d) Not later than ten (10) days after an inspection of a landfill under this section, the individual who conducted the inspection on behalf of the district shall prepare a written report on the results of the inspection and send the report to the following:

(1) The executive of the county.

(2) The commissioner of the department of environmental management.

(3) The director of the division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1.

SECTION 16. IC 14-32-7-6, AS AMENDED BY P.L.175-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The division of soil conservation:

(1) shall administer and coordinate the duties and responsibilities of the **Indiana state** department of agriculture under the land resource programs authorized by this chapter; and

(2) in carrying out its duties under subdivision (1), may work in cooperation with the following:

(A) Federal and state agencies.

(B) Local governmental agencies involved in land use planning and zoning.

(C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The **Indiana state** department of agriculture may employ the personnel and provide facilities and services that are necessary to carry out the **Indiana state** department of agriculture's duties and responsibilities under this chapter.

(c) The **Indiana state** department of agriculture shall prepare an annual report of the division of soil conservation's expenditures and accomplishments and that contains a proposed business plan.

SECTION 17. IC 14-32-7-7, AS AMENDED BY P.L.1-2006, SECTION 224, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this section, "urban geology survey" means a systematic scientific identification, inventory, and mapping of the earth materials of a given area that sets forth the capabilities, potentials, and limitations of the earth materials for human needs.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of urban geology surveys, together with other geologic investigations, for Indiana to develop and present the geologic data and information necessary to a coordinated land conservation program that will promote sound land use decisions.

SECTION 18. IC 14-32-7-8, AS AMENDED BY P.L.1-2006, SECTION 225, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "landscape survey" means a systematic scientific identification, inventory, and mapping of the features of the earth's surface that serve to constitute the landscape of a given area, including key factors such as the following:

(1) Land form.
(2) Vegetation.
(3) Wildlife.
(4) Physical characteristics.
(5) Visual perception.
(6) Historical and cultural sites.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of landscape surveys for Indiana to develop and present the surficial landscape data and information necessary to promote wise land use decisions.

SECTION 19. IC 14-32-7-8.5, AS AMENDED BY P.L.175-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.5. (a) As used in this section, "soil survey" means a systematic scientific identification, inventory, and mapping of the soils of a given area that sets forth the capabilities, potential, and limitations of the soils in the satisfaction of human needs.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to implement and supplement a program of modern soil surveys and geographic information systems (GIS) for Indiana that will, within the shortest practicable time, provide a modern soil survey and geographic information system for each county as an essential tool in land conservation.

SECTION 20. IC 14-32-7-9, AS AMENDED BY P.L.1-2006, SECTION 227, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The **Indiana state** department of agriculture shall provide more support and assistance to the local soil and water conservation districts by:

(1) granting to the districts the additional money that is appropriated by the general assembly; and

(2) increased coordination and consultative services;

to obtain increased participation by the districts in the development of improved local land use practices and decisions.

SECTION 21. IC 14-32-7-10, AS AMENDED BY P.L.1-2006, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to expand the small watershed planning program as carried out in cooperation with the Natural Resources Conservation Service of the United States Department of Agriculture under 16 U.S.C. 1001 et seq., to reduce the accumulation of approved watershed planning requests and expedite the realization of the multiple benefits of this soil and water conservation program.

SECTION 22. IC 14-32-7-11, AS AMENDED BY P.L.1-2006, SECTION 229, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The **Indiana state** department of agriculture shall coordinate and schedule the programs authorized by sections 7 through 8 of this chapter to provide, as nearly as practicable, for concurrent completion and furnishing of the results of

each program for each selected area study unit.

SECTION 23. IC 14-32-7-13, AS AMENDED BY P.L.1-2006, SECTION 230, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The **Indiana state** department of agriculture shall administer this article subject to the direction of the board.

SECTION 24. IC 15-11-1-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. "Department" refers to the **Indiana state** department of agriculture established by IC 15-11-2-1.

SECTION 25. IC 15-11-1-3, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. "Director" refers to the director of the **Indiana state** department of agriculture appointed under IC 15-11-3-1.

SECTION 26. IC 15-11-2-1, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The **Indiana state** department of agriculture is established.

SECTION 27. IC 15-11-2-3, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

~~(A) The center for value added research under IC 15-11-9.~~

~~(B)~~ **(A)** The state fair board for purposes of carrying out the ~~director of the department of agriculture's~~ **director's** duties under IC 15-13-5.

~~(C)~~ **(B)** The Indiana corn marketing council for purposes of administering the duties of the director ~~of the department of agriculture~~ under IC 15-15-12.

~~(D)~~ **(C)** The Indiana organic peer review panel under IC 15-15-8.

~~(E)~~ **(D)** The Indiana dairy industry development board for purposes of administering the duties of the director ~~of the department of agriculture~~ under IC 15-18-5.

~~(F)~~ **(E)** The Indiana land resources council under IC 15-12-5.

~~(G)~~ **(F)** The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.

~~(H)~~ **(G)** The Indiana grain indemnity corporation under

IC 26-4-3.

~~(H)~~ **(H)** The division.

~~(I)~~ **(I)** The E85 fueling station grant program under IC 15-11-11.

(2) Administer the election of state fair board members under IC 15-13-5.

(3) Administer state programs and laws promoting agricultural trade.

(4) Administer state livestock or agriculture marketing grant programs.

(5) Administer economic development efforts for agriculture **by doing the following:**

(A) Promoting value added agricultural resources.

(B) Marketing Indiana agriculture to businesses internationally.

(C) Assisting Indiana agricultural businesses with developing partnerships with the Indiana economic development corporation.

(D) Soliciting private funding for selective economic development and trade initiatives.

(E) Providing for the orderly economic development and growth of Indiana's agricultural economy.

SECTION 28. IC 15-11-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. The department shall promote the growth of agricultural businesses by doing the following:**

(1) Assisting agricultural businesses with the permit process required to conduct business in Indiana.

(2) Serving as a liaison between agricultural businesses, state agencies, and local units of government.

SECTION 29. IC 15-11-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7. The department may keep records submitted to the department by a livestock producer under a voluntary certification program confidential.**

SECTION 30. IC 15-11-6-1, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The director is responsible for foreign market

promotion for agricultural products **through the following:**

(1) Creating a report and plan for international trade.

(2) Working in partnership with the Food Export Association of the Midwest.

(3) Conducting and participating in foreign trade missions.

(4) Providing education on export and export opportunities for Indiana agricultural businesses.

SECTION 31. IC 15-11-7-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.3. As used in this chapter, "diversified farming" means new, emerging, and small scale agricultural markets, including alternative and niche agricultural markets.**

SECTION 32. IC 15-11-7-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.6. As used in this chapter, "specialty crop" means any fruit, vegetable, tree nut, dried fruit, and nursery crop, including floriculture.**

SECTION 33. IC 15-11-7-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The director shall do the following:

(1) ~~Organize and develop an~~ **Prepare an annual report that contains** information and market research ~~center for aquaculture.~~ **concerning diversified farming.**

(2) Instigate the formation of a market and development plan for ~~the aquaculture industry.~~ **diversified farming.**

(3) Encourage the development and growth of **diversified farming,** aquaculture, **and specialty crops through education programs.**

(4) Administer the United States Department of Agriculture Specialty Crop Block Grant Program.

(5) Identify diversified farming opportunities.

(6) Create a healthy network to better connect farmers to available resources.

(7) Aggressively promote the opportunities and benefits of agricultural diversification.

SECTION 34. IC 15-12-2-1, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 1. As used in this chapter, "director" means the director of the **Indiana state** department of agriculture.

SECTION 35. IC 15-12-4-1, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

(2) "Remediation program" refers to the program established under section 2 of this chapter.

SECTION 36. IC 15-12-5-2, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture.

SECTION 37. IC 15-13-2-2, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The commission consists of eight (8) members as follows:

(1) Five (5) members appointed by the governor.

(2) The presiding officer of the board.

(3) The director of the **Indiana state** department of agriculture appointed under IC 15-11-3-1 or the director's designee.

(4) The presiding officer of the trustees elected under IC 15-13-11-7 or the presiding officer's designee who must be selected from the membership of the trustees.

(b) The chairperson of the advisory committee appointed under IC 15-13-6-2(d) or a member of the advisory committee designated by the chairperson may serve as an ex officio nonvoting member of the commission.

(c) Not more than:

(1) one (1) member appointed under subsection (a)(1) may reside in the same district; and

(2) three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

Each district is not required to have a member of the commission represent it.

(d) Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.

SECTION 38. IC 15-13-5-2, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The board consists of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the **Indiana state** department of agriculture or the director's designee.

(3) The director of the cooperative extension service of Purdue University or the director's designee.

(4) Seven (7) members appointed under this chapter by the governor, one (1) from each district.

(5) One (1) member elected under this chapter from each district.

(b) Not more than one (1) member appointed under subsection (a)(4) may reside in the same district.

(c) Not more than four (4) members appointed under subsection (a)(4) may be affiliated with the same political party.

(d) Each member appointed under subsection (a)(4) must have a recognized interest in agriculture or agribusiness.

(e) When an appointment of a member under subsection (a)(4) is required, the appointment may not be made until after the election of members under subsection (a)(5) for that year is certified under section 22 of this chapter.

SECTION 39. IC 15-13-5-9, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. If an organization wants to be certified to vote in an election under this chapter, the organization must apply to the director of the **Indiana state** department of agriculture.

SECTION 40. IC 15-13-5-10, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Subject to sections 11 through 13 of this chapter, the director of the **Indiana state** department of agriculture shall certify an organization that applies under section 9 of this chapter as eligible to vote in a district election under this chapter only if the organization:

(1) is an agricultural interest;

(2) is regularly organized within the district;

(3) has at least ten (10) active members;

(4) has elected officers;

(5) has an annual meeting;

(6) has been in existence for at least one (1) year before the application for certification is filed with the director of the **Indiana state** department of agriculture; and

(7) before July 1 of the year of the election in which the organization wants to participate, files with the director of the **Indiana state** department of agriculture:

(A) the name of the organization;

(B) the names and addresses of the organization's officers;

(C) the name, address, and title of the individual who is authorized by the organization to vote for the organization in an election under this chapter;

(D) the number of the organization's active members;

(E) a certification that the organization is eligible to be certified under this chapter; and

(F) other information required by the director of the **Indiana state** department of agriculture.

(b) A certification under subsection (a) expires July 1 of the fourth year after the certification is issued by the director of the **Indiana state** department of agriculture.

SECTION 41. IC 15-13-5-13, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The director of the **Indiana state** department of agriculture may not certify for a district under section 10 of this chapter more than two (2) organizations in a county in the district that satisfy the requirements of section 10 of this chapter.

(b) If more than two (2) organizations in a county in a district that satisfy the requirements of section 10 of this chapter apply for certification, the director of the **Indiana state** department of agriculture may certify any two (2) of those organizations, considering the following criteria:

(1) Order of application for certification.

(2) Number of members of each organization.

(3) How long each organization has been in existence.

(4) Activity of each organization in promotion of agricultural interests.

(5) Diversity of representation of interests within the agricultural community.

SECTION 42. IC 15-13-5-14, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Before September 1 of the year the term of a member representing a district expires, the director of the **Indiana state** department of agriculture shall notify each organization certified for the district under section 10 of this chapter that a district convention will be held to elect the member to represent the district.

(b) Subject to section 17 of this chapter, the director of the **Indiana state** department of agriculture shall:

(1) state in the notice required by subsection (a) the date, time, and place of the district convention and the name of the presiding officer; and

(2) choose a date, time, and place that will encourage maximum participation in the district convention by organizations referred to in subsection (a).

SECTION 43. IC 15-13-5-15, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The director of the **Indiana state** department of agriculture shall send copies of the credentials of each individual entitled to vote in a district convention to the following:

(1) The board member representing the district.

(2) The individual who will preside over the district convention.

SECTION 44. IC 15-13-5-16, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The director of the **Indiana state** department of agriculture shall choose from among the members of the commission the individual to preside at a district convention.

(b) The presiding officer of the convention may vote in the case of a tie vote on any matter.

SECTION 45. IC 15-13-5-18, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The director of the **Indiana state** department of agriculture shall adopt rules for the business of a district convention. Rules adopted under this section may not be inconsistent with this chapter.

SECTION 46. IC 15-13-5-23, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. The director of the **Indiana state** department

of agriculture may:

(1) adopt rules under IC 4-22-2; and

(2) prescribe forms;

to implement sections 9 through 22 of this chapter.

SECTION 47. IC 15-13-11-3, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The trustees govern the barn. The trustees consist of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the **Indiana state** department of agriculture or the director's designee.

(3) The dean of agriculture of Purdue University or the dean's designee.

(4) The president of the Purdue University Agriculture Alumni Association or the president's designee.

(5) The state superintendent of public instruction or the state superintendent's designee.

(6) The state veterinarian or the state veterinarian's designee.

(7) The presiding officer of the commission or the presiding officer's designee selected from the membership of the commission.

(8) The presiding officer of the board or the presiding officer's designee selected from the membership of the board.

(9) One (1) member appointed by the largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(10) One (1) member appointed by the second largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(11) Seven (7) members appointed by the governor.

(b) Of the members appointed under subsection (a)(11), not more than four (4) may be affiliated with the same political party.

(c) Each member appointed under subsection (a)(11) must have a recognized interest in the barn.

SECTION 48. IC 15-15-5-1, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 1. This chapter applies to civil actions against a seller for the failure of agricultural or vegetable seeds to perform if the container in which the seeds were sold included the following notice on the label:

NOTICE OF REQUIRED ARBITRATION

Under the seed laws of Indiana and some other states, arbitration is required as a precondition of maintaining certain legal actions, counterclaims, or defenses against a seller of seed. Information about this requirement, where applicable, may be obtained from a state's seed commissioner or the **Indiana State** Department of Agriculture.

SECTION 49. IC 15-15-7-11, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) As used in this section, "suit" refers to a suit commenced against a farmer by a seed supplier to enforce the seed supplier's rights under, or in connection with, a seed contract.

(b) If a seed supplier files suit against a farmer, the seed supplier shall provide simultaneous written notice of the suit to the director of the **Indiana state** department of agriculture.

(c) Failure to give notice of the suit to the director of the **Indiana state** department of agriculture as provided in subsection (b) does not impair the jurisdiction of the court to hear the suit.

(d) A seed supplier that fails to give notice to the director of the **Indiana state** department of agriculture as provided in subsection (b) commits a Class B infraction.

(e) The director of the **Indiana state** department of agriculture shall keep a file of all notices of suits received under this section.

SECTION 50. IC 15-15-8-3, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

SECTION 51. IC 15-15-11-10, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A representative group of at least five percent (5%) of the producers of an agricultural commodity may petition the dean of agriculture for permission to establish a commodity market development council.

(b) A petition described in subsection (a) must include the following:

(1) A statement of the area of production to be included. The area must be statewide. However, the area may be limited to a well defined smaller area if the area is the principal commercial producer of the agricultural commodity in Indiana.

(2) A statement of the general purposes of the agricultural commodity market development council program. The purposes may include research, education, market development, publicity, sales promotion, and cooperation with other state, regional, and national organizations.

(3) The amount of the fee to be collected for each designated unit of commercial quantities of the agricultural commodity.

(4) The method to be used in the collection of the fee.

(5) The composition, qualification, terms of office, method of nomination, election, filling unexpired terms, expenses, and duties of the members of the commodity market development council. However, the following apply to the council:

(A) The council must consist of an odd number of at least five (5) but not more than fifteen (15) members. A member may not serve on the council for more than six (6) consecutive years. A majority of the council members must be producers selected by producers.

(B) The dean of agriculture serves as an ex officio member of the council.

(C) The director of the **Indiana state** department of agriculture or the director's designee serves as an ex officio member of the council.

(6) The method of conducting the referendum of the agricultural commodity producers. The method must be either by mail or by polling place, depending on the area and volume of the commodity.

SECTION 52. IC 15-15-12-6, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the person designated by the director of the **Indiana state** department of agriculture to carry out duties imposed on the director of the **Indiana**

state department of agriculture under this chapter.

SECTION 53. IC 15-16-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter, "ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.**

SECTION 54. IC 15-16-2-3, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "blender" means a person ~~who is~~ **or system** engaged in the business of blending fertilizer materials.

SECTION 55. IC 15-16-2-4, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "blending" means the physical mixing or combining: ~~of at least two (2) fertilizer materials. The term includes the simultaneous application of at least two (2) fertilizer materials~~

(1) of one (1) or more fertilizer materials and one (1) or more filler materials;

(2) of two (2) or more fertilizer materials; or

(3) of two (2) or more fertilizer materials and filler materials; including mixing through the simultaneous or sequential application of any of the combinations referred to in subdivision (1), (2), or (3) to produce a uniform mixture.

SECTION 56. IC 15-16-2-9, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "custom blend" means a fertilizer blended:

(1) according to specifications provided to a blender in a soil test nutrient recommendation; or

(2) to meet **specific requests of a** consumer ~~requirements specified~~ **(who is the end user)** before blending.

SECTION 57. IC 15-16-2-23, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. As used in this chapter, "use" means the ~~process of placing~~ **placement or usage of commercial** fertilizer ~~to~~

~~promote plant growth.~~ **on a targeted growing area.**

SECTION 58. IC 15-16-2-25, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:Sec. 25. (a) The Indiana fertilizer advisory board is established to:

(1) study the regulation of fertilizer; and

(2) advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

(1) Two (2) representatives of the retail fertilizer industry.

(2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.

(3) Two (2) representatives of producers of agricultural crops.

(4) One (1) representative of the lawn care industry.

(5) One (1) representative of the Purdue School of Agriculture.

(6) One (1) representative of a public conservation organization.

(7) One (1) representative of the livestock industry.

~~(7)~~ **(8)** The president of the Indiana Plant Food and Agricultural Chemicals Association, who serves as a nonvoting member.

~~(8)~~ **(9)** One (1) representative of the department of environmental management, who serves as a nonvoting member.

~~(9)~~ **(10)** The fertilizer administrator for the office of the state chemist, who serves as a nonvoting member.

~~(10)~~ **(11)** The engineer specialist for the office of the state chemist, who serves as a nonvoting member.

(12) One (1) representative of the department, who shall serve as a nonvoting member.

(c) The state chemist shall appoint the voting members of the board, who serve for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

SECTION 59. IC 15-16-2-49.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 49.5. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:**

(1) warn or issue a citation to the person; or

(2) deny, suspend, revoke, or amend the person's registration under this chapter.

(b) A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.

SECTION 60. IC 15-16-4-2, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "active ingredient" means:

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

(A) prevent;

(B) destroy;

(C) repel; or

(D) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests;

(2) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or alter the behavior of:

(A) ornamental or crop plants; or

(B) the produce of ornamental or crop plants;

(3) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; ~~and~~

(4) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; **and**

(5) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.

SECTION 61. IC 15-16-4-20, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. As used in this chapter, "ingredient statement" means any of the following:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

(2) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide.

~~However, the statement under subdivision (1) applies if the preparation~~

~~is highly toxic to humans, determined under section 50 of this chapter. In addition to requirements under subdivisions (1) and (2), if a pesticide contains arsenic in any form, the term also means a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.~~

SECTION 62. IC 15-16-4-24, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

(1) upon the pesticide product or any of its containers or wrappers;

(2) accompanying the pesticide product at any time; or

(3) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(A) the United States Department of Agriculture;

(B) the United States Department of Interior;

(C) the United States Department of Health and Human Services;

(D) the United States Environmental Protection Agency;

~~(D)~~ **(E)** state experiment stations;

~~(E)~~ **(F)** state agricultural colleges; or

~~(F)~~ **(G)** other similar federal institutions or official agencies of Indiana or other states authorized by law to conduct research in the field of pesticides.

SECTION 63. IC 15-16-4-42, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) The Indiana pesticide review board is established. The board consists of the following members:

(1) One (1) representative of the state department of health.

~~(2) One (1) representative of the state department of toxicology.~~

~~(3) One (1) representative of the state veterinarian.~~

~~(4)~~ **(2)** One (1) representative of the department of natural resources.

~~(5)~~ **(3)** One (1) representative of the department of environmental management.

~~(6)~~ **(4)** One (1) representative of the Purdue University office of

agricultural research programs.

~~(7)~~ **(5)** One (1) representative of the Purdue University cooperative extension service.

~~(8)~~ **(6)** Two (2) ecologists with earned doctorate degrees:

(A) one (1) a terrestrial ecologist; and

(B) one (1) an aquatic ecologist.

~~Not more than one (1) ecologist may be from a state supported university or college, and~~ Not more than one (1) ecologist may be a plant ecologist.

~~(9)~~ **(7)** One (1) public representative.

~~(10)~~ **(8)** One (1) representative of the pesticide industry.

~~(11)~~ **(9)** Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

~~(12)~~ **(10)** One (1) public representative from conservation organizations.

~~(13)~~ **(11)** Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

~~(14)~~ **(12)** Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-16-5-45.

~~(15)~~ **(13)** The state chemist, who is an ex officio member and shall serve as a nonvoting member.

~~(16)~~ **(14)** The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

~~(17)~~ **(15)** The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years **and, subject to subsection (d), continue until the member's successor is approved and qualified.** Appointments shall be made so that not more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

SECTION 64. IC 15-16-4-46, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46. (a) ~~Ten (10)~~ **Nine (9)** members of the board constitute a quorum.

(b) Official actions are subject to approval by a simple majority of board members present at a called meeting.

(c) The chairperson shall actively participate in all decisions of the board.

SECTION 65. IC 15-16-4-47, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 47. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:

(1) State officials.

(2) Staff members of state offices.

(3) Staff members of the Purdue University office of agricultural research programs.

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the ~~state~~ **Purdue University** travel policies and procedures, established by the ~~Indiana~~ **Purdue University** department of ~~administration~~ **transportation** and approved by the ~~budget agency.~~ **Purdue University vice president of business services.**

SECTION 66. IC 15-16-4-53, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 53. ~~An agent of~~ The state chemist ~~has the same authority~~ **may delegate to an employee or agent any function** that is vested in the state chemist by this chapter.

SECTION 67. IC 15-16-4-55, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 55. The state chemist or the state chemist's agent may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours:

(A) to:

(i) have access to; and

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

records relating to the **production,** use, transportation, and sale of pesticide products, subject to this chapter and the rules adopted under this chapter.

(2) Enter at a reasonable time in or upon any:

(A) private; or

(B) public;

property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 68. IC 15-16-4-57, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 57. Except as provided in section 58 of this chapter, a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any of the following:

(1) Any pesticide product that has not been registered under section 61 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container designed and constructed to accommodate the return

and refill of ~~greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material)~~ **the container)** unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

~~(5) The pesticides commonly known as:~~

~~(A) standard lead arsenate;~~

~~(B) basic lead arsenate;~~

~~(C) calcium arsenate;~~

~~(D) magnesium arsenate;~~

~~(E) zinc arsenate;~~

~~(F) zinc arsenite;~~

~~(G) sodium fluoride;~~

~~(H) sodium fluosilicate; and~~

~~(I) barium fluosilicate;~~

~~unless the pesticides have been distinctly colored or discolored as provided by rules adopted under this chapter, or any other white powder pesticide that the state chemist, by rule, requires to be distinctly colored or discolored unless it has been so colored or discolored. If the state chemist requires a white powder pesticide to be distinctly colored or discolored under this section, the state chemist must first investigate and hold a public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.~~

~~(6)~~ **(5)** Any pesticide product that is adulterated or misbranded.

~~(7)~~ **(6)** Any pesticide in containers violating rules adopted under section 50(a)(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

~~(8)~~ **(7)** A highly volatile herbicide except on written permission by the state chemist.

~~(9)~~ **(8)** Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

SECTION 69. IC 15-16-4-64, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the:

(1) confidential statement of formula;

(2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and

(3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) The state chemist shall register a pesticide product if:

(1) the state chemist determines that the composition of the pesticide product warrants the proposed claims for ~~it;~~ ~~and~~ **the pesticide product;**

(2) the pesticide product, its labeling, and other material required to be submitted comply with the requirements of section 61 of this chapter; **and**

(3) the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter.

(c) The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if the state chemist determines:

(1) that the proposed claims for the pesticide product; or

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted;

does not comply with this chapter.

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall give the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(e) The state chemist, in accordance with the procedures specified in this section, may **deny,** suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

(1) the pesticide product; ~~or its~~

(2) the pesticide product's labeling; **or**

(3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter.

(f) If:

(1) an application for registration is refused; or

(2) the state chemist proposes to **deny,** suspend, or cancel a registration;

notice of the action **and information concerning the person's right to obtain a review under section 64.5 of this chapter** must be given to the applicant or registrant. ~~who shall have fifteen (15) days from the date of the notice to request a hearing on the proposed action in accordance with IC 4-21.5.~~

SECTION 70. IC 15-16-4-64.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 64.5. (a) A person who is:**

(1) regulated under this chapter; and

(2) aggrieved by any decision of the state chemist;

may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board

may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

SECTION 71. IC 15-16-4-70, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 70. (a) The examination of pesticide products shall be made under the direction of the state chemist to determine whether the pesticide products comply with this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter and the state chemist contemplates instituting proceedings against any person, the state chemist shall give appropriate notice to the person.

(c) A person notified under subsection (b) shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings to the state chemist.

(d) Subject to subsection (e), if the state chemist determines that a person violated this chapter, the state chemist ~~shall~~ **may** refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product.

(e) This chapter may not be construed to require the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

SECTION 72. IC 15-16-4-73, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

(1) finds any pesticide product:

(A) upon any premises; or

(B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution or

sale; and

(2) determines that the pesticide product:

(A) is in violation of this chapter; or

(B) has been or is intended to be:

(i) distributed; ~~or~~

(ii) sold; **or**

(iii) used;

in violation of this chapter;

the state chemist may issue an order under subsection (b).

(b) The state chemist may issue a written or printed:

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

(1) sell;

(2) use; or

(3) remove;

the pesticide product only in accordance with the order or until the pesticide product is released in writing by the state chemist or by order of a court.

(e) When a stop sale order is issued under subsection (b), the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

(1) A stop sale order has been issued on the pesticide product.

(2) A reference to the specific language of the law or rule that is believed to have been violated.

(f) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

SECTION 73. IC 15-16-5-31, AS ADDED BY SEA 190-2008,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. As used in this chapter, "property" means all:

(1) land and water areas, including airspace; and ~~all~~

(2) plants, animals, structures, buildings, contrivances, **vehicles,** and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

SECTION 74. IC 15-16-5-42, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. The state chemist may waive all or part of the requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, 53, 54, **56,** and 57 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

SECTION 75. IC 15-16-5-48, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) Subject to section 55 of this chapter, a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars ($45) for each pesticide business license that is issued.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license must be on a form provided by the state chemist. Each application must contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

(1) use of pesticides under the category for which the applicant or applicator has applied; and

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with

each location from which pesticides are used for hire.

(e) The state chemist may renew any pesticide business license.

(f) Subject to **subsections (a), (b), (c), and (d) and** section 65 of this chapter, if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides **or making diagnostic inspections or reports to determine infestations of wood destroying pests** on the property of another;

(2) the applicant files evidence of financial responsibility required under section 58 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist ~~shall~~ **may** issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license expires January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. A surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 58 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 76. IC 15-16-5-52, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 52. (a) A person applying for a license described under section 49, 50, or 51 of this chapter must:

(1) submit an application to the state chemist on a form provided by the state chemist;

(2) pass the appropriate examination provided under section 45 of this chapter;

(3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars ($45) to the state chemist; and

(4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) Subject to section 65 of this chapter, if a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person who applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person who has been issued a license under subsection (b):

(1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and

(2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

(1) expires January 1 of each year; and

(2) **subject to section 65 of this chapter,** may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar ($45) renewal fee;

before January 1.

SECTION 77. IC 15-16-5-58, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or

pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses **and technician registrations** are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is in compliance and the applicant's license is reinstated by the state chemist.

(b) This chapter does not relieve any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

SECTION 78. IC 15-16-5-59, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 59. (a) Commercial applicators and licensed pest inspectors shall maintain records concerning:

(1) the application of restricted use pesticides;

(2) diagnostic inspections to determine infestations of wood destroying pests; and

(3) any relevant information that the state chemist determines by rule is necessary for purposes of this chapter.

(b) The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses.

(c) Records required under this section must be kept for:

(1) two (2) years after the date of the **inspection or the** application of the pesticide; ~~and~~ **or**

(2) the time specified by rule.

(d) The state chemist shall be provided access to the records by the commercial applicator **or licensed pest inspector.**

SECTION 79. IC 15-16-5-62, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 62. **(a)** The state chemist may adopt rules to require the reporting of significant pesticide accidents or incidents.

(b) Any person:

(1) claiming damages from a pesticide accident ~~shall~~ **or incident; and**

(2) requesting an investigation of those damages by the state chemist;

must file a ~~claim on a form provided by~~ **report with** the state chemist. ~~This report must be filed within sixty (60) days after the date that damages occurred.~~ If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. ~~The state chemist shall, not later than seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed, and furnish copies of such statements as may be requested.~~

SECTION 80. IC 15-16-5-63, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 63. The state chemist may cooperate with, and enter into agreements with, any other agency of the state, any federal agency, or any other state agency or nongovernmental organization to carry out this chapter to:

(1) secure uniformity of rules;

(2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;

(3) develop and administer state plans for certification of applicators consistent with federal standards;

(4) contract or cooperate with agencies or organizations for the purpose of training applicators;

(5) contract for monitoring pesticides; ~~for the national plan;~~

(6) prepare and submit state plans to meet federal certification standards;

(7) ~~regulate certified applicators;~~ **administer and enforce requirements under this chapter;** and

(8) make reports to the United States Environmental Protection Agency as the agency requires.

SECTION 81. IC 15-16-5-64, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. (a) A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner ~~as to:~~ **that may:**

(1) cause injury to:

(A) humans;

(B) beneficial vegetation;

(C) crops;
(D) livestock;
(E) wildlife; or
(F) beneficial insects; or

(2) pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

SECTION 82. IC 15-16-5-65, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

(1) Made false or fraudulent claims **either verbally or** through any media misrepresenting the effect of pesticides or methods to be used.

(2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.

(3) Used known ineffective or improper pesticides **or known ineffective amounts of pesticides.**

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist **or the board.**

(7) Refused or neglected to:

(A) keep and maintain the records required by this chapter; or

~~to~~

(B) make reports and supply information when required **or requested by the state chemist in the course of an investigation or inspection.**

(8) Made false or fraudulent records, invoices, or reports.

(9) Engaged in or professed to be engaged in the business of:

(A) using a pesticide; or

(B) making a diagnostic inspection to determine infestations of a wood destroying pest;

for hire on the property of another without having a pesticide business license.

(10) Used a restricted use pesticide without having an applicator, who is licensed or permitted under this chapter, in direct supervision.

(11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.

(13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person.

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.

(15) Impersonated any federal, state, county, or city inspector, investigator, or official.

(16) Knowingly purchased or used a pesticide that was not registered under IC 15-16-4.

(17) Failed to continuously maintain financial responsibility required under section 58 of this chapter **or to provide proof of financial responsibility to the state chemist when requested.**

(18) Intentionally altered a duly issued license, permit, registration, or certification.

(19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.

SECTION 83. IC 15-16-5-69, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 69. (a) The state chemist may enter upon any public or private property at reasonable times to do the following:

(1) Observe the use and application of a pesticide.

(2) Inspect equipment subject to this chapter.

(3) Inspect and sample property actually or reported to be exposed to pesticides.

(4) Inspect storage or disposal areas.

(5) Inspect or investigate complaints of injury to humans or property.

(6) Sample pesticides being used or to be used.

(7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

(b) ~~If the state chemist is denied access to any property for a purpose under subsection (a),~~ The state chemist may, upon showing a need, apply to any court with jurisdiction for a search warrant authorizing access to the property. The court may, after receiving the application and finding a need, issue the search warrant for the purposes requested.

(c) A prosecuting attorney to whom a violation of this chapter is reported may institute and prosecute the violation in a court with jurisdiction of that county without delay. The state chemist may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

SECTION 84. IC 15-16-5-70, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 70. (a) A person who recklessly, knowingly, or intentionally:

(1) violates this chapter, except as provided in subsection (b); or

(2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist;

commits a Class C misdemeanor.

(b) A person who **recklessly,** knowingly, or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or

threatened violation of this chapter or a rule under this chapter. A court may not allow the recovery of damages for an administrative action taken under this subsection if the court finds that there was probable cause for the action.

SECTION 85. IC 15-17-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5.5. Grading and Certification of Meat and Meat Products

Sec. 1. The board may provide voluntary grading and certification services relating to meat and meat products.

Sec. 2. The board shall charge a fee to cover the cost of grading and certification under this chapter. The board shall adopt rules under IC 4-22-2 to set the fees under this section.

Sec. 3. Neither the board nor the state may incur any liability for lawful actions taken under this chapter.

Sec. 4. A person who knowingly or intentionally forges a grade or certification under this chapter commits a Class D felony.

SECTION 86. IC 15-18-5-3, AS AMENDED BY SEA 190-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

SECTION 87. IC 15-18-5-16, AS AMENDED BY SEA 190-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. The board shall do the following:

(1) Elect from among the board's members a chairperson, vice chairperson, secretary, treasurer, and other officers the board considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.

(4) Bond the treasurer and other persons as necessary to ensure adequate protection of funds received and administered by the board.

(5) Authorize the expenditure of funds and the contracting of

expenditures to conduct proper activities under this chapter.

(6) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the board and the scope of this chapter.

(7) Provide for an independent audit, provide the results of the audit to the state board of accounts and the **Indiana state** department of agriculture, and make the results of the audit available to all interested persons.

(8) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(9) Formulate and execute assessment procedures and methods of collection.

(10) Establish procedures to annually inform all producers regarding board members, policy, expenditures, and programs for the preceding year.

(11) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(12) Take any other action necessary for the proper implementation of this chapter, including the adoption of rules under IC 4-22-2.

SECTION 88. IC 15-19-7-26, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. A commercial feed, except a custom mixed feed, must be accompanied by a label bearing the following information:

(1) The net weight.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in the terms that the state chemist, by rule, determines are required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by AOAC ~~(Association of Analytical Communities)~~ International.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. However, the state chemist, by rule, may:

(A) permit the use of a collective term for a group of ingredients that perform a similar function; or

(B) exempt a commercial feed or group of commercial feeds from the requirement for an ingredient statement if the state chemist finds that such a statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for:

(A) commercial feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(7) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the commercial feed.

SECTION 89. IC 15-19-7-27, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. Custom mixed feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, and the net weight of each ~~registered~~ commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 26 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.

(5) Adequate directions for use for:

(A) custom mixed feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(6) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the custom mixed feed.

SECTION 90. IC 21-46-2-1, AS ADDED BY P.L.2-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: Sec. 1. The director of the **Indiana state** department of agriculture shall ~~establish a center for value added research to~~ perform the following duties:

(1) **Work with each county to** develop ~~a~~ **an annual** strategic assessment of Indiana agricultural industries and establish targeted priorities for industry expansion.

(2) Develop recommendations for legislative and administrative programs that will enhance economic development in the targeted agricultural industries.

~~(3) Identify and prioritize research development and educational needs for expanding value added opportunities in Indiana.~~

~~(4)~~ **(3)** Establish cooperative industry research and development initiatives that lead to new agricultural industry opportunities in Indiana.

~~(5)~~ **(4)** Serve as a resource for industry in the planning, promotion, and development of value added agricultural products and agricultural industry opportunities in Indiana, including product feasibility, market feasibility, economic feasibility, product development, product testing, and test marketing.

~~(6)~~ **(5)** Serve as a resource for industry and the state in attracting value added agricultural industry to Indiana.

~~(7)~~ **(6)** Develop private sector research funding and technology transfer programs commensurate with the state's targeted agricultural industry economic development objectives.

~~(8)~~ **(7)** Provide a forum for continuing dialogue between industry, government, and researchers in addressing the needs and opportunities for expanding the value added agricultural industry.

SECTION 91. IC 26-3-7-1, AS AMENDED BY P.L.1-2006, SECTION 482, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~There is created in the department of agriculture an agency to be known as~~ The Indiana grain buyers and warehouse licensing agency **is established within the Indiana state department of agriculture** to administer this chapter. The director of the **Indiana state** department of agriculture may appoint the director of the agency, who shall serve at the pleasure of the director of the **Indiana state** department of agriculture. The director shall administer this chapter and shall be the ultimate authority in the administration of this chapter.

(b) The agency may employ all necessary employees, counsel, and consultants to carry out the provisions of this chapter and is vested with the power necessary to fully and effectively carry out the provisions and objectives of this chapter.

SECTION 92. IC 34-30-2-64, AS AMENDED BY SEA 190-2008, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. IC 15-12-2-6 (Concerning the United States and the United States Secretary of Agriculture for the transfer of assets to the director of the **Indiana state** department of agriculture on behalf of the Indiana rural rehabilitation corporation).

SECTION 93. IC 35-42-2-1, AS AMENDED BY P.L.164-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; ~~or~~

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; **or**

(F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and

directed by a law enforcement officer while the officer is engaged in the execution of ~~his~~ **the officer's** official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; or

(M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:

(i) is at least eighteen (18) years of age; and

(ii) committed the offense in the physical presence of a child

less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 94. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 15-11-6-3; IC 15-11-6-4; IC 15-11-6-5; IC 15-11-6-6; IC 15-11-9-2; IC 15-11-9-3; IC 24-6-7.

P.L.121-2008
[S.315. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-10-6-2.1, AS AMENDED BY P.L.99-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; ~~and~~

(4) can be adequately cared for in a residential care setting; **and**

(5) has not made any asset transfer prohibited under the state plan or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

(b) Individuals with mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this

subsection has mental retardation, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal. Payment for such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars ($52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability and rehabilitative services to purchase services for individuals with a mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs

established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 2. IC 12-10-6-3, AS AMENDED BY P.L.1-2007, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The division, in cooperation with the state department of health, taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under section 2.1 of this chapter. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities in order to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under section 2.1 of this chapter.

(b) A rule adopted under ~~this~~ subsection **(a)** by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

~~(b)~~ **(c)** Any rate established under section 2.1 of this chapter may be appealed according to the procedures under IC 4-21.5.

~~(c)~~ **(d)** The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 3. IC 12-10-12-6, AS AMENDED BY P.L.50-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) This subsection does not apply after ~~June 30, 2008.~~ **December 30, 2008.** If an individual who is discharged from a hospital licensed under IC 16-21:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program;

prior approval of the individual's admission to the nursing facility may not be required by the office under IC 12-15-21-1 through IC 12-15-21-3.

(b) This subsection applies beginning ~~July 1, 2008.~~ **December 31, 2008.** If an individual:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program;

prior approval of the individual's admission to the nursing facility may be required by the office under IC 12-15-21-1 through IC 12-15-21-3.

(c) The office ~~may~~ **shall** adopt rules under IC 4-22-2 to implement:

(1) subsection (b);

(2) a screening and counseling program for individuals seeking long term care services; and

(3) a biennial review of Medicaid waiver reimbursement rates.

~~However, the adopted rules may not take effect before July 1, 2008.~~

SECTION 4. IC 12-10-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A screening team shall conduct a nursing facility preadmission screening program for each individual within the time permitted under this chapter. The program must consist of an assessment of the following:

(1) The individual's medical needs.

(2) The availability of services, other than services provided in a nursing facility, that are appropriate to the individual's needs.

(3) The cost effectiveness of providing services appropriate to the individual's needs that are provided outside of, rather than within, a nursing facility.

(b) The assessment must be conducted in accordance with rules adopted under IC 4-22-2 by the director of the division in cooperation with the office.

(c) Communication among members of a screening team or between a screening team and the division, ~~or~~ the office, **or the agency** during the prescreening process may be conducted ~~using~~ **by means including** any of the following:

(1) Standard mail.

(2) Express mail.

(3) Facsimile machine.

(4) Secured electronic communication.

SECTION 5. [EFFECTIVE MARCH 31, 2008] **(a) This SECTION does not apply to the conversion of acute care beds to comprehensive care beds under IC 16-29-3.**

(b) As used in this SECTION, "comprehensive care bed" means a bed that:

(1) is licensed or is to be licensed under IC 16-28-2;

(2) functions as a bed licensed under IC 16-28-2; or

(3) is subject to IC 16-28.

The term does not include a comprehensive care bed that will be used solely to provide specialized services and that is subject to IC 16-29.

(c) As used in this SECTION, "replacement bed" means a comprehensive care bed that is relocated to a health facility that is licensed or is to be licensed under IC 16-28. This term includes comprehensive care beds that are certified for participation in:

(1) the state Medicaid program; or

(2) both the state Medicaid program and federal Medicare program.

(d) Except as provided in subsection (e), the Indiana health facilities council may not recommend and the state department of health may not approve the certification of new or converted comprehensive care beds for participation in the state Medicaid program unless the statewide comprehensive care bed occupancy rate is more than ninety-five percent (95%), as calculated annually on January 1 by the state department of health.

(e) This SECTION does not apply to the following:

(1) A health facility that:

(A) seeks a replacement bed exception;

(B) is licensed or is to be licensed under IC 16-28;

(C) applies to the state department of health to certify a comprehensive care bed for participation in the Medicaid program if the comprehensive care bed for which the health facility is seeking certification is a replacement bed for an existing comprehensive care bed;

(D) applies to the division of aging in the manner:

(i) described in subsection (f); and

(ii) prescribed by the division; and

(E) meets the licensure, survey, and certification requirements of IC 16-28.

(2) A continuing care retirement community required to file a disclosure statement under IC 23-2-4 if the continuing care retirement community is under development on March 30, 2008. In determining whether a continuing care retirement community is under development, the state department shall consider the following:

(A) whether:

(i) architectural plans have been completed;

(ii) funding has been received;

(iii) zoning requirements have been met; and

(iv) construction plans for the project have been approved by the state department and the division of fire and building safety; and

(B) any other evidence that the state department determines is an indication that the continuing care retirement community is under development.

(f) An application made under subsection (e)(1)(D) for a replacement bed exception must include the following:

(1) The total number and identification of the existing comprehensive care beds that the applicant requests be replaced by health facility location and by provider.

(2) If the replacement bed is being transferred to a different health facility, a verification from the health facility holding the comprehensive care bed certification that the health facility has agreed to transfer the beds to the applicant health facility.

(3) If the replacement bed is being transferred to a different health facility under different ownership, a copy of the complete agreement between the health facility transferring the beds and the applicant health facility.

(4) Any other information requested by the division of aging that is necessary to evaluate the transaction.

(g) This SECTION expires June 30, 2011.

SECTION 6. **An emergency is declared for this act.**

P.L.122-2008
[S.329. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-23-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. **(a) Except as provided in subsection (b),** a magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

(b) A person who:

(1) is serving as a full-time magistrate on July 1, 2010, and makes an election under IC 33-38-8-10.5; or

(2) begins serving as a full-time magistrate after July 1, 2010; shall, beginning January 1, 2011, participate in the judges' 1985 benefit system under IC 33-38-8.

SECTION 2. IC 33-34-8-3, AS AMENDED BY P.L.174-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the state user fee fund

established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) **sixty percent (60%) of** all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township.

SECTION 3. IC 33-37-5-27, AS AMENDED BY P.L.80-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding to enforce a statute defining an infraction.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1, and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of ~~three~~ **five** dollars ~~($3).~~ **($5).**

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have committed an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a court administration fee of ~~three~~ **five** dollars ~~($3).~~ **($5).**

SECTION 4. IC 33-37-7-2, AS AMENDED BY SEA 227-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county

auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) **This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34.** The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 5. IC 33-37-7-9, AS AMENDED BY P.L.174-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~eight~~ **nine** million two hundred seventy-seven thousand twenty-three dollars ~~($8,277,023)~~ **($9,277,023)** for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eight and ~~ninety-nine hundredths~~ **three-hundredths** percent ~~(8.99%),~~ **(8.03%);**

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-one~~ **thirty-eight** and ~~eighteen~~ **fifty-five** hundredths percent ~~(31.18%),~~ **(38.55%);**

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and ~~eighty-six~~ **fifty-six** hundredths percent ~~(2.86%),~~ **(2.56%);**

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~eleven~~ **ten** and ~~fifty-one~~ **twenty-seven** hundredths percent ~~(11.51%),~~ **(10.27%);**

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~thirteen~~ **eleven** and ~~thirty-seven~~ **ninety-three** hundredths percent ~~(13.37%),~~ **(11.93%);**

(6) the motor vehicle highway account an amount equal to ~~twenty-one~~ **nineteen** and ~~eighty-four~~ **forty-nine** hundredths

percent ~~(21.84%),~~ **(19.49%);**

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~twenty-seven~~ **twenty-five** hundredths percent ~~(.27%),~~ **(0.25%);**

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and ~~eighty-two~~ **sixty-three** hundredths percent ~~(1.82%),~~ **(1.63%);** and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~eight~~ **seven** and ~~sixteen~~ **twenty-nine** hundredths percent ~~(8.16%),~~ **(7.29%);**

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars ($1,700,000); and

(2) after June 30, 2005, two million seven hundred thousand dollars ($2,700,000).

SECTION 6. IC 33-38-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 7. IC 33-38-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953,~~ **or, after December 31, 2010, a judge or full-time magistrate,** and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 8. IC 33-38-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) A judge **or,**

after December 31, 2010, a judge or full-time magistrate, is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate,** is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and

(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

SECTION 9. IC 33-38-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for ~~prior~~ service credit under section 18 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the

Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 10. IC 33-38-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies only to an individual who:

(1) begins service as a judge after August 31, 1985;

(2) is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter; or

(3) begins service as a full-time magistrate after July 1, 2010.

SECTION 11. IC 33-38-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 12. IC 33-38-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953,~~ **or, after December 31, 2010, a judge or full-time magistrate,** and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 13. IC 33-38-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a)** A person who:

(1) begins service as a judge after August 31, 1985; and

(2) is not a participant in the fund;

shall become a participant in the fund.

(b) A person who is serving as a full-time magistrate on July 1,

2010, and makes an election under section 10.5 of this chapter is, beginning January 1, 2011, a participant in the judges' 1985 benefit system under this chapter.

(c) A person who begins serving as a full-time magistrate after July 1, 2010, is a participant in the judges' 1985 benefit system under this chapter beginning on the later of the following:

(1) January 1, 2011.

(2) The date the person begins service as a full-time magistrate.

SECTION 14. IC 33-38-8-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.5. A person who is serving as a full-time magistrate on July 1, 2010, may elect to become a member of the judges' 1985 benefit system under this chapter. An election under this section:**

(1) must be made in writing;

(2) must be filed with the board, on a form prescribed by the board, before October 1, 2010; and

(3) is irrevocable.

SECTION 15. IC 33-38-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge **or, after December 31, 2010, as a judge or full-time magistrate.** However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or

(2) during any period that the participant is not serving as judge **or, after December 31, 2010, as a judge or full-time magistrate.**

SECTION 16. IC 33-38-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A participant

who:

(1) ceases service:

(A) as a judge; **or**

(B) after December 31, 2010, as a judge or full-time magistrate;

other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from **the** date of **the** withdrawal application or in monthly installments as the participant may elect.

SECTION 17. IC 33-38-8-13, AS AMENDED BY P.L.28-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. A participant whose employment as **a** judge **or, after December 31, 2010, as a judge or full-time magistrate,** is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date on which the benefit begins is not:

(A) before the date of final termination of employment of the participant; or

(B) the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

SECTION 18. IC 33-38-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

(1) the **applicable** salary ~~that was paid to the participant at the time of separation from service;~~ **determined under subsection (e);** multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by

prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

(e) The applicable salary is one (1) of the following:

(1) The salary that was being paid to the participant at the time of the participant's separation from service for:

(A) a participant who applies to receive a retirement benefit from the fund before January 1, 2010; or

(B) a participant who:

(i) before January 1, 2010, separates from service;

(ii) is entitled to receive a retirement benefit from the fund, but does not apply before January 1, 2010, to receive a retirement benefit; and

(iii) does not earn any service credit in the fund after December 31, 2009.

(2) The salary being paid for the office that the participant held at the time of the participant's separation from service for a participant who:

(A) applies to receive a benefit after December 31, 2009; and

(B) is not a participant described in subdivision (1)(B).

SECTION 19. IC 33-38-8-17, AS AMENDED BY P.L.99-2007, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge **or, after December 31, 2010, as a judge or full-time magistrate;**

(C) had a permanent disability; or

(D) had completed at least eight (8) years of service, was not still in service as a judge **or, after December 31, 2010, as a judge or full-time magistrate,** and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in

equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 20. IC 33-38-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate,** is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate,** is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and

(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

SECTION 21. IC 33-38-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) ~~before becoming a judge~~ was appointed by a court to serve as a full-time referee, full-time commissioner, or, **before January 1, 2011,** full-time magistrate, **either:**

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant **as a judge** in the judges' 1985 benefit system under section 1 of this chapter, credit for ~~prior~~ service by the judge as a full-time referee, full-time commissioner, or, **before January 1, 2011,** full-time magistrate shall be granted under this chapter by the board if:

(1) the ~~prior~~ service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the ~~prior~~ service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the ~~prior~~

service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service ~~after the date of participation~~ **earned as a participant** in the **judges'** 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section ~~13(2)(b)~~ **13(2)(B)** of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section ~~13(2)(b)~~ **13(2)(B)** of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for ~~prior~~ service in the public employees'

retirement fund as a full-time referee, full-time commissioner, or, **before January 1, 2011,** full-time magistrate is waived. Any credit for the ~~prior~~ service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 22. IC 33-38-8-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22.5. (a) This section applies after December 31, 2010, only to a person who:**

(1) is a full-time magistrate participating under this chapter;

(2) was appointed by a court to serve as:

(A) a full-time referee or full-time commissioner; or

(B) before January 1, 2011, a full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant as a full-time magistrate in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the magistrate as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:

(1) the service was credited under the public employees' retirement fund; and

(2) the magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b) are satisfied, the board shall transfer from the public employees' retirement

fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or before July 1, 2010, full-time magistrate is waived. Any credit for the service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section

457(b) of the Internal Revenue Code.

SECTION 23. IC 33-38-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies only to a person who:

(1) is:

(A) a judge; **or**

(B) after December 31, 2010, a judge or full-time magistrate;

participating under this chapter;

(2) before becoming:

(A) a judge; **or**

(B) after December 31, 2010, a judge or full-time magistrate;

was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for ~~prior~~ service credit under section 22 **or 22.5** of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under a public employees' retirement fund; and

(2) the judge **or full-time magistrate** pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the **judges'** 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the **judges'** 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the

appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's **or full-time magistrate's** annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 24. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) This section applies:**

(1) only to a participant:

(A) who applies to receive a retirement benefit from the fund before January 1, 2010; or

(B) who:

(i) before January 1, 2010, separates from service;

(ii) is entitled to receive a retirement benefit from the fund but does not apply before January 1, 2010, to receive a retirement benefit; and

(iii) does not earn any service credit in the fund after December 31, 2009; and

(2) only in state fiscal years beginning after June 30, 2010.

(b) If a salary increase is provided in a particular state fiscal year under IC 33-38-5-8.1, the monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which salaries are increased under IC 33-38-5-8.1(b) in that state fiscal year. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-8.1 takes effect.

(c) This subsection applies only if:

(1) a salary increase is not provided in a particular state fiscal year under IC 33-38-5-8.1; and

(2) the salary of a judge is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly in the state fiscal year.

The monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The

percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly takes effect.

(d) An increase payable under this section may not include any amount based on the percentage by which any salary provided by a county or counties under IC 36-2-5-14 or IC 36-3-6-3(c) is increased.

SECTION 25. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" means the commission on courts established by IC 33-23-10-1.**

(b) The commission shall study and make recommendations to the legislative council concerning:

(1) whether the judges in St. Joseph County should be selected by election or by appointment; and

(2) if the commission decides that the selection process should be changed, how the selection process should be changed and how those changes should be implemented.

(c) Before November 1, 2008, the commission shall issue a final report to the legislative council containing the findings and recommendations of the commission, including any recommended legislation. The report must be in an electronic format under IC 5-14-6.

(d) This SECTION expires November 2, 2008.

P.L.123-2008

[S.350. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-15-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A provider that

is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%); and

(2) is established and operated under IC 16-22-2 or IC 16-23.

(c) A community mental health center: ~~that:~~

(1) **that** is identified in IC 12-29-2-1;

(2) ~~receives funding under:~~ **for which a county provides funds under:**

(A) IC 12-29-1-7(b) before January 1, 2004; or

(B) ~~IC 12-29-2-20(c)~~ **IC 12-29-2-20(d)** after December 31, 2003;

or from other county sources; and

(3) **that** provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

(d) A disproportionate share provider under IC 12-15-17 must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals

less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

SECTION 2. IC 12-15-18-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(2).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

(1) produce payments to each hospital licensed under IC 16-21 that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

(2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share

provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(e) A county making a payment under:

(1) IC 12-29-1-7(b) before January 1, 2004; or

(2) ~~IC 12-29-2-20(e)~~ **IC 12-29-2-20(d)** after December 31, 2003; or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

SECTION 3. IC 12-29-2-2, AS AMENDED BY P.L.224-2007, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A county shall fund the operation of community mental health centers in the amount determined under subsection (b), unless a lower tax levy amount will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the STEP ONE result by the county's

assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the STEP TWO result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

(2) Except as provided in subsection (c), for 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30. Notwithstanding any provision in this section or any other section of this chapter, for a county subject to this subsection, the county's maximum property tax levy under this section to fund the operation of community mental health centers for the ensuing calendar year is equal to the county's maximum property tax levy to fund the operation of community mental health centers for the current calendar year.

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the non-federal share of medical assistance payments to community mental health centers serving the county for:

(1) allowable administrative services; and

(2) community mental health rehabilitation services.

All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly

to the community mental health center semiannually at the times that the payments are made under subsection (e).

(e) The county shall appropriate and disburse the funds for operations semiannually not later than December 1 and June 1 in an amount equal to the amount determined under subsection (b) and requested in writing by the division of mental health and addiction. The total funding amount paid to the division of mental health and addiction for a county for each calendar year may not exceed the amount that is calculated in subsection (b) and set forth in writing by the division of mental health and addiction for the county. Funds paid to the division of mental health and addiction by the county shall be submitted by the county in a timely manner after receiving the written request from the division of mental health and addiction, to ensure current year compliance with the community mental health rehabilitation program and any administrative requirements of the program.

(f) The division of mental health and addiction shall ensure that the non-federal share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(a)(5)(E).

(g) The division of mental health and addiction:

(1) shall first apply state funding to a community mental health center's non-federal share of funding under this program; and

(2) may next apply county funding received under IC 12-29-2-2 to any remaining non-federal share of funding for the community mental health center.

The division shall distribute any excess state funds that exceed the community mental health rehabilitation services non-federal share applied to a community mental health center that is entitled to the excess state funds.

(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.

SECTION 4. IC 12-29-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) A community mental health center that:

(1) is certified by the division of mental health and addiction; **and**

~~(2) receives county funding from one (1) or more counties under this chapter; and~~

~~(3)~~ **(2)** is not administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's governing board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

(b) A community mental health center that:

(1) is certified by the division of mental health and addiction; **and**

(2) ~~receives county funding from one (1) or more counties under this chapter; and~~

~~(3)~~ is administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's advisory board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

SECTION 5. IC 12-29-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. A community mental health center that is certified by the division of mental health and addiction shall provide an annual report to the fiscal body of each county **located in the community mental health center's primary service area.** ~~from which the center receives funding under this chapter.~~

SECTION 6. IC 12-29-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) **The county payment for operations of a community mental health center shall be paid by the county treasurer to the division as described in section 2 of this chapter.**

(b) To the extent that money is appropriated by a county for purposes allowed under section 1.2(b)(1) of this chapter or is no longer required or requested for programs under section 2 of this chapter, on the first Monday in October, the county auditor shall

certify to:

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

~~(b)~~ **(c)** The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

~~(c)~~ **(d)** A county making a payment under this section or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

~~(d)~~ **(e)** Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 7. IC 12-29-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. SEA 350-2008 Moratorium

Sec. 1. As used in this chapter, "restricted rules" means the rules that the United States Secretary of Health and Human Services is restricted from implementing under the congressional moratorium enacted as part of H.R. 2206 (Iraq War Supplement; May 25, 2007), including the following:

(1) The proposed rule published on January 18, 2007, in volume 72 of the Federal Register (relating to 42 CFR, parts

433, 447, and 457).

(2) The final form of the proposed rule described in subdivision (1) as published in volume 72 of the Federal Register on May 29, 2007.

Sec. 2. Notwithstanding any other law, the additions and amendments to the Indiana Code set forth in SEA 350-2008 are applicable only to the extent that:

(1) the congressional moratorium on the implementation of the restricted rules by the United States Secretary of Health and Human Services is not extended; and

(2) the restricted rules are implemented.

SECTION 8. **An emergency is declared for this act.**

P.L.124-2008

[H.1019. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-8.5-18, AS ADDED BY P.L.44-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2007 (RETROACTIVE)]: Sec. 18. ~~(a) Except as provided in subsection (b),~~ The balance in a retired participant's subaccount may be used by the retired participant and the spouse and dependents of the retired participant to pay premiums for individual or group health coverage. ~~provided by an insurance policy.~~

~~(b) If the budget agency requests and receives from the Internal Revenue Service an appropriate ruling or determination letter, the balance in a retired participant's subaccount also may be used to pay:~~

~~(1) premiums for individual or group health coverage provided by a means other than an insurance policy; and~~

~~(2) sickness, accident, hospitalization, and medical expenses of~~

~~the retired participant, and the spouse and dependents of the retired participant.~~

SECTION 2. IC 5-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of ~~his~~ **the member's** disability if:

(1) the member has at least five (5) years of creditable service before the:

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or

(B) exhaustion of all worker's compensation benefits;

(2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the member reaches age sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if ~~he~~ **the member** furnishes proof of the qualification to the board of the public employees' retirement fund.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. However, the monthly disability retirement benefit may not be less than one hundred **eighty** dollars ~~($100).~~ **($180).**

(c) The member may have ~~his~~ **the member's** benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

(1) a member of the public employees' retirement fund who

became disabled after June 30, 1973; and

(2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

(g) If the fund is authorized to make, in the form of a single check or a series of checks, a one (1) time distribution that does not increase the pension portion of the monthly benefit, the distribution must include members eligible for disability benefits. A member eligible for disability benefits is required to meet all additional requirements necessary to receive the check or series of checks issued by the fund under this subsection.

SECTION 3. IC 5-10.2-5-43.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43.4. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

(1) before July 2, 2000, shall be increased by two percent (2%); and

(2) after July 1, 2000, and before July 2, 2006, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 4. [EFFECTIVE AUGUST 1, 2007 (RETROACTIVE)] **IC 5-10-8.5-18, as amended by this act, applies to premiums paid after July 31, 2007, for individual or group health coverage for a retired participant and the spouse and dependents of a retired participant.**

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a retired state employee who:**

(1) retired after July 31, 2007;

(2) either:

(A) was eligible on the retired state employee's retirement date to participate in the group health insurance program described in IC 5-10-8-8 but did not file a written request to participate in the group health insurance program described in IC 5-10-8-8 within ninety (90) days after the retired state employee's retirement date as required by IC 5-10-8-8(f); or

(B) is eligible to participate in the state group health insurance program described in IC 5-10-8-8 and, on April 1, 2008, has fewer than sixty (60) days after the retired state employee's retirement date to file a written request to participate in the group health insurance program described in IC 5-10-8-8 as required by IC 5-10-8-8(f); and

(3) was eligible on the retired state employee's retirement date to receive a benefit from the retirement medical benefits account established under IC 5-10-8.5.

(b) Notwithstanding IC 5-10-8-8(f), a retired state employee has sixty (60) days after April 1, 2008, to file with the employer from whom the retired state employee retired a written request to participate in the group health insurance program described in IC 5-10-8-8. The employer shall accept the retired state employee's request and allow the retired state employee to participate in the group health insurance program described in IC 5-10-8-8, if the retired state employee:

(1) is otherwise eligible to participate in the program; and

(2) complies with the requirements of the program, including payment of the employer's and employee's premium for the group health insurance for an active employee.

(c) A retired state employee who elects under subsection (b) to file a written request to participate in the group health insurance program described in IC 5-10-8-8 may use the balance in the employee's subaccount of the retirement medical benefits account to pay the premiums for the coverage, as provided in IC 5-10-8.5-18, as amended by this act.

(d) This SECTION expires December 31, 2008.

SECTION 6. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 5-10.2-4-6, as amended by this act, applies to disability retirement benefits payable by the Indiana state teachers' retirement fund and the public employees' retirement fund after December 31, 2007.**

SECTION 7. **An emergency is declared for this act.**

P.L.125-2008
[H.1049. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning higher education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 21-12-3-3, AS ADDED BY P.L.2-2007, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. To maintain eligibility a student is not required to:

(1) attend an approved postsecondary educational institution; or

(2) receive an award;

in consecutive semesters or quarters. ~~However, a recipient's eligibility for an award does not extend more than ten (10) years after the date the initial award is granted.~~

SECTION 2. IC 21-12-3-4, AS ADDED BY P.L.2-2007, SECTION

253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A student who:

(1) participates in:

(A) a nursing diploma program that is accredited by the Indiana state board of nursing and operated by a hospital;

(B) a technical certificate or associate degree program at Ivy Tech Community College; or

(C) an associate degree program at a postsecondary proprietary educational institution that qualifies as an approved postsecondary educational institution; and

(2) meets the requirements in sections 1 **and** 2 ~~and 3~~ of this chapter for a first year higher education award except the requirement of satisfactory progress toward a first baccalaureate degree;

is eligible to receive a state higher education award under this chapter. However, the student must make satisfactory progress toward obtaining the diploma, technical certificate, or associate degree to remain eligible for the award.

SECTION 3. IC 21-12-3-9, AS ADDED BY P.L.2-2007, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A higher education award for a student in a program leading to a baccalaureate degree may be renewed for a total of three (3) academic years following the academic year of the first award or until an earlier time as the student receives a degree normally obtained in four (4) academic years. A higher education award for a student in a program leading to a technical certificate or an associate degree may be renewed for the number of academic years normally required to obtain a certificate or degree in the student's program. The commission may grant a renewal only upon application and only upon its finding that:

(1) the applicant has successfully completed the work of a preceding year;

(2) the applicant remains domiciled in Indiana;

(3) the recipient's financial situation continues to warrant an award, based on the financial requirements set forth in section 1(3) of this chapter; and

(4) the applicant is eligible under ~~sections~~ **section** 2 ~~and 3~~ of this chapter.

SECTION 4. IC 21-12-3-10, AS ADDED BY P.L.2-2007, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. Out of funds available after commitments have been met under sections 8 and 9 of this chapter, awards shall be issued to persons who have successfully completed at least one (1) but not more than three (3) academic years in approved postsecondary educational institutions, if they meet the eligibility requirements of:

(1) sections 1 **and** 2 ~~and 3~~ of this chapter; or

(2) sections 4 and 5 of this chapter.

The awards shall be handled on the same basis as renewals under section 9 of this chapter.

SECTION 5. IC 21-12-8-7 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 6. [EFFECTIVE JULY 1, 2008] **585 IAC 1-9-4(4)(B) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove that provision from the Indiana Administrative Code.**

P.L.126-2008

[H.1052. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning criminal law and procedure and motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-13-2-49.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 49.7. "Entrapment" means a confining circumstance from which escape or relief is difficult or impossible.**

SECTION 2. IC 9-24-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Except as

provided in subsection (c), an examination for a learner's permit must consist of a test of the applicant's eyesight **and knowledge of IC 9-26-1-1.5.** All other examinations must include the following:

(1) A test of the following of the applicant:

(A) Eyesight.

(B) Ability to read and understand highway signs regulating, warning, and directing traffic.

(C) Knowledge of Indiana traffic laws, **including IC 9-26-1-1.5.**

(2) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle under the type of permit or license applied for.

(b) The examination may include further physical and mental examination that the bureau finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon Indiana highways. The applicant must provide the motor vehicle used in the examination.

(c) The bureau shall waive the actual demonstration required under subsection (a)(2) for a person who has passed a driver's education class and a road test given by a commercial driver training school or a high school driver education program.

(d) The bureau shall adopt rules under IC 4-22-2 specifying requirements for a road test given under subsection (c) by a commercial driver training school or a high school driver education program.

SECTION 3. IC 9-26-1-1, AS AMENDED BY P.L.210-2005, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The driver of a vehicle involved in an accident that results in the injury or death of a person **or the entrapment of a person in a vehicle** shall do the following:

(1) Immediately stop the **driver's** vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to

the following:

(i) The person struck.

(ii) The driver or occupant of or person attending each vehicle involved in the accident.

(C) **Subject to section 1.5(a) of this chapter,** determines the need for and renders reasonable assistance to each person injured **or entrapped** in the accident, including the removal or the making of arrangements for:

(i) the removal of each injured person **from the scene of the accident** to a physician or hospital for medical treatment; **and**

(ii) the removal of each entrapped person from the vehicle in which the person is entrapped.

(3) **Subject to section 1.5(b) of this chapter,** immediately give notice of the accident by the quickest means of communication to one (1) of the following:

(A) The local police department if the accident occurs within a municipality.

(B) The office of the county sheriff or the nearest state police post if the accident occurs outside a municipality.

(4) Within ten (10) days after the accident, forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005.

SECTION 4. IC 9-26-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) If:**

(1) the driver of a vehicle is physically incapable of determining the need for or rendering assistance to any injured or entrapped person as required under section 1(2)(C) of this chapter;

(2) there is another occupant in the vehicle at the time of the accident who is:

(A) at least:

(i) fifteen (15) years of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or

(ii) eighteen (18) years of age; and

(B) capable of determining the need for and rendering reasonable assistance to injured or entrapped persons as provided in section 1(2)(C) of this chapter; and

(3) the other occupant in the vehicle knows that the driver of the vehicle is physically incapable of determining the need for or rendering assistance to any injured or entrapped person;

the vehicle occupant referred to in subdivisions (2) and (3) shall immediately determine the need for and render reasonable assistance to each person injured or entrapped in the accident as provided in section 1(2)(C) of this chapter.

(b) If:

(1) the driver of a vehicle is physically incapable of giving immediate notice of an accident as required under section 1(3) of this chapter;

(2) there is another occupant in the vehicle at the time of the accident who is:

(A) at least:

(i) fifteen (15) years of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or

(ii) eighteen (18) years of age; and

(B) capable of giving notice as provided in section 1(3) of this chapter; and

(3) the other occupant in the vehicle knows that the driver of the vehicle is physically incapable of giving immediate notice of an accident;

the vehicle occupant referred to in subdivisions (2) and (3) shall immediately give notice of the accident by the quickest means of communication as provided in section 1(3) of this chapter.

(c) If there is more than one (1) vehicle occupant to whom subsection (a) applies, it is a defense to a prosecution of one (1) vehicle occupant under subsection (a) that the defendant reasonably believed that another occupant of the vehicle determined the need for and rendered reasonable assistance as required under subsection (a).

(d) If there is more than one (1) vehicle occupant to whom subsection (b) applies, it is a defense to a prosecution of one (1) vehicle occupant under subsection (b) that the defendant

reasonably believed that another occupant of the vehicle gave the notice required under subsection (b).

SECTION 5. IC 9-26-1-2, AS AMENDED BY P.L.210-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The driver of a vehicle involved in an accident that does not result in injury or death of a person **or the entrapment of a person in a vehicle** but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

(1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to the driver or occupant of or person attending each vehicle involved in the accident.

(3) If the accident results in total property damage to an apparent extent of at least one thousand dollars ($1,000), forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005;

within ten (10) days after the accident.

SECTION 6. IC 9-26-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) If:

(1) the driver of a vehicle is physically incapable of making ~~an immediate or~~ a written report of an accident as required by this chapter; and

(2) there was another occupant in the vehicle at the time of the accident capable of making ~~an immediate or~~ a written report;

the occupant shall make or cause to be made the report not made by the driver.

(b) If:

(1) the driver of a vehicle is physically incapable of making an immediate or a written report of an accident as required by this chapter;

(2) there was no other occupant; and

(3) the driver is not the owner of the vehicle;

the owner of the vehicle involved in the accident shall, within five (5) days after the accident, make the report not made by the driver.

SECTION 7. IC 9-26-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A person who **knowingly or intentionally** fails to stop or comply with section 1(1) or 1(2) of this chapter after causing injury to a person commits a Class A misdemeanor. However, the offense is:

(1) a Class D felony if:

(A) the accident involves serious bodily injury to a person; or

(B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a); ~~and~~

(2) a Class C felony if the accident involves the death of a person; **and**

(3) a Class B felony if the person knowingly or intentionally fails to stop or comply with section 1(1) or 1(2) of this chapter after committing operating while intoxicated causing serious bodily injury (IC 9-30-5-4).

(b) A person who **knowingly or intentionally** fails to stop or comply with section 3 or 4 of this chapter after causing damage to the property of another person commits a Class B misdemeanor.

SECTION 8. IC 9-26-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A person who **intentionally, knowingly, or recklessly** violates section 1(3), **1.5,** 2(1), or 2(2) of this chapter commits a Class C misdemeanor.

SECTION 9. IC 9-30-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a) Except as provided in subsection (b),** a person who violates section 1 or 2 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 1(b) or 2(b) of this chapter; and

(C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

(b) A person who violates section 1 or 2 of this chapter, or subsection (a)(2) of this section, commits a Class C felony if:

(1) the person has a previous conviction of operating while intoxicated causing death (IC 9-30-5-5); or

(2) the person has a previous conviction of operating while intoxicated causing serious bodily injury (IC 9-30-5-4).

SECTION 10. IC 9-30-5-10, AS AMENDED BY P.L.172-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section. **The court may require that a period of suspension recommended under this section be imposed, if applicable, before a period of incarceration or after a period of incarceration, or both before and after a period of incarceration, as long as the suspension otherwise complies with the periods established in this section.**

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an offense under:

(1) section 4 of this chapter;

(2) section 5 of this chapter;

(3) IC 14-15-8-8(b); or

(4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 11. IC 34-30-12-1, AS AMENDED BY P.L.74-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This section does not apply to services

rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in IC 27-8-10-1).

(b) Except as provided in subsection (c), a person who comes upon the scene of an emergency or accident, **complies with IC 9-26-1-1.5,** or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

(1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person;

except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5 applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

(e) A licensed physician who gives medical direction in the use of a defibrillator or a national or state approved defibrillator instructor of a person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from civil liability for any act or omission of the licensed physician or instructor if the act or omission of the licensed physician or instructor:

(1) involves the training for or use of an automatic external defibrillator; and

(2) does not amount to gross negligence or willful or wanton misconduct.

SECTION 12. IC 35-50-1-2, AS AMENDED BY P.L.1-2006, SECTION 549, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) As used in this section, "crime of violence" means **the following:**

(1) Murder (IC 35-42-1-1).

(2) Attempted murder (IC 35-41-5-1).

(3) Voluntary manslaughter (IC 35-42-1-3).

(4) Involuntary manslaughter (IC 35-42-1-4).

(5) Reckless homicide (IC 35-42-1-5).

(6) Aggravated battery (IC 35-42-2-1.5).

(7) Kidnapping (IC 35-42-3-2).

(8) Rape (IC 35-42-4-1).

(9) Criminal deviate conduct (IC 35-42-4-2).

(10) Child molesting (IC 35-42-4-3).

(11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).

(12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).

(13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1). ~~or~~

(14) **Operating a motor vehicle while intoxicated** causing death ~~when operating a motor vehicle~~ (IC 9-30-5-5).

(15) Operating a motor vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).

(16) Resisting law enforcement as a felony (IC 35-44-3-3).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

(1) aggravating circumstances in IC 35-38-1-7.1(a); and

(2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order

terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 13. [EFFECTIVE JULY 1, 2008] **IC 9-26-1-1, IC 9-26-1-2, IC 9-26-1-6, IC 9-26-1-8, IC 9-26-1-9, IC 9-30-5-3, IC 9-30-5-10, and IC 35-50-1-2, all as amended by this act, apply only to crimes committed after June 30, 2008.**

SECTION 14. [EFFECTIVE JULY 1, 2008] **IC 9-26-1-1.5, as added by this act, applies only to crimes committed after June 30, 2008**.

P.L.127-2008
[H.1096. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "public officer" refers to any of the following:

(1) The governor.
(2) The lieutenant governor.
(3) The secretary of state.
(4) The auditor of state.
(5) The treasurer of state.
(6) The attorney general.
~~(7) The clerk of the supreme court.~~
~~(8)~~ **(7)** The state superintendent of public instruction.
~~(9)~~ **(8)** A justice of the supreme court of Indiana.
~~(10)~~ **(9)** A judge of the court of appeals of Indiana.
~~(11)~~ **(10)** A judge of the Indiana tax court.
~~(12)~~ **(11)** A judge of a circuit, superior, probate, or county court.
~~(13)~~ **(12)** A member of the general assembly.

SECTION 2. IC 9-24-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A verified petition filed under section 2 of this chapter must be filed in the circuit court **or superior court** of the county in which the petitioner resides. **However, if at the time the petition is filed:**

(1) the petitioner is a defendant in a pending case concerning the commission of an offense described in IC 9-30-5;
(2) the petitioner is on probation after being convicted of committing an offense described in IC 9-30-5; or
(3) the petitioner's driving privileges have been suspended

under IC 35-48-4-15 after the petitioner was convicted of committing an offense described in IC 35-48-4-15(a);

the petition may be filed only in the circuit court or superior court in which the case is pending or the petitioner was convicted.

(b) The clerk of the ~~circuit~~ court shall docket the verified petition in the name of the petitioner against the prosecuting attorney of the county.

(c) The prosecuting attorney shall appear in person or by deputy and be heard by the court on the petition.

(d) The bureau:

(1) serves as a recordkeeper; and

(2) is not a party;

in a proceeding under this chapter.

SECTION 3. IC 33-23-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A magistrate may do any of the following:

(1) Administer an oath or affirmation required by law.

(2) Solemnize a marriage.

(3) Take and certify an affidavit or deposition.

(4) Order that a subpoena be issued in a matter pending before the court.

(5) Compel the attendance of a witness.

(6) Punish contempt.

(7) Issue a warrant.

(8) Set bail.

(9) Enforce court rules.

(10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.

(11) Conduct an evidentiary hearing or trial.

(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to

prevent domestic or family violence).

SECTION 4. IC 33-23-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. Except as provided under ~~section~~ **sections 5(14) and** 9(b) of this chapter, a magistrate:

(1) does not have the power of judicial mandate; and

(2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

SECTION 5. IC 33-23-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The following shall file with the commission on judicial qualifications an annual statement of economic interests:

(1) Justices, judges, **and** prosecuting attorneys. ~~and the clerk of the supreme court.~~

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office are subject to IC 3-9.

(c) This section does not apply to a candidate for an appointment pro tempore to fill a vacancy in an office under IC 3-13.

SECTION 6. IC 33-23-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. The statement of economic interests must set forth the following information for the preceding calendar year:

(1) The name and address of any person other than a spouse or close relative from whom the justice, judge, **or** prosecuting attorney ~~or clerk of the supreme court~~ received a gift or gifts having a total fair market value of more than one hundred dollars ($100).

(2) The name of the employer of the justice, judge, **or** prosecuting attorney ~~or clerk of the supreme court~~ and the employer of the spouse of the justice, judge, **or** prosecuting attorney. ~~or clerk of the supreme court.~~

(3) The nature of the employer's business.

(4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court,~~ and the nature

of the business.

(5) The name of any partnership of which the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court~~ is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court~~ is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse or unemancipated children less than eighteen (18) years of age of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court own~~ **owns** stock or stock options having a fair market value of more than ten thousand dollars ($10,000).

SECTION 7. IC 33-30-2-1, AS AMENDED BY P.L.234-2007, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. ~~(a) A county court is established in Madison County.~~

~~(b) However,~~ A county court ~~described in subsection (a)~~ is abolished if:

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court;

for the county in which the county court was established.

SECTION 8. IC 33-31-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one (1)~~ **three (3)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5. The ~~magistrate~~ **magistrates** may exercise:

(1) probate jurisdiction under section 9(a) of this chapter; and

(2) juvenile jurisdiction under section 9(b) of this chapter;

and ~~continues~~ **continue** in office until removed by the judge.

SECTION 9. IC 33-33-2-14, AS AMENDED BY P.L.1-2007, SECTION 216, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The Allen superior court may appoint probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, the court believes are necessary to facilitate and transact the business of the court.

(b) In addition to the personnel authorized under subsection (a) and IC 31-31-3, the following magistrates may be appointed:

(1) The judges of the Allen superior court-civil division may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5 to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division may jointly assign any magistrates the duties and powers of a probate commissioner.

(2) The judge of the Allen superior court-criminal division may jointly appoint not more than three (3) full-time magistrates under IC 33-23-5 to serve the Allen superior court-criminal division. Any magistrate serves at the pleasure of, and continues in office until jointly removed by, the judges of the division that appointed the magistrate.

(c) All appointments made under this section must be made without regard to the political affiliation of the appointees. The salaries of the personnel shall be fixed and paid as provided by law. If the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and be entered of record. The officers and persons appointed shall perform duties as are prescribed by the court. Any administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and serve at the pleasure of the chief judge. Any probate commissioners, magistrates, juvenile referees, bailiffs, court reporters, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(d) Any probate commissioner appointed by the court may be vested by the court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in the court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the

taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning the probate commissioner's actions under this subsection, including the taking and hearing of evidence together with the commissioner's findings and conclusions regarding the evidence. However, all matters under this subsection are under the final jurisdiction and decision of the judges of the court.

(e) A juvenile referee appointed by the court may be vested by the court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, and the making of reports to the court concerning the referee's actions under this subsection. The actions of a juvenile referee under this subsection are under final jurisdiction and decision of the judges of the court.

(f) A probate commissioner or juvenile referee may:

(1) summon witnesses to testify before the commissioner or juvenile referee; and

(2) administer oaths and take acknowledgments;

to carry out the commissioner's or juvenile referee's duties and powers.

~~(g) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).~~

SECTION 10. IC 33-33-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. **(a)** Dearborn County and Ohio County constitute the seventh judicial circuit.

(b) The judge of the Dearborn and Ohio circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

SECTION 11. IC 33-33-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Franklin County constitutes the thirty-seventh judicial circuit.

(b) There are two (2) judges of the Franklin circuit court.

~~(b)~~ **(c)** The Franklin circuit court has a standard small claims and

misdemeanor division.

SECTION 12. IC 33-33-24-2, AS ADDED BY P.L.234-2007, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The ~~judge~~ **judges** of the Franklin circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the ~~judge.~~ **judges.**

SECTION 13. IC 33-33-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. Jefferson County ~~and Switzerland County constitute~~ **constitutes** the fifth judicial circuit.

SECTION 14. IC 33-33-48-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There is established a court of record in Madison County to be known as the Madison superior court.

(b) The Madison superior court has ~~three (3)~~ **five (5)** judges.

(c) Except as otherwise provided in this chapter, the Madison superior court is a standard superior court as described in IC 33-29-1.

SECTION 15. IC 33-33-48-11, AS ADDED BY P.L.2-2005, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. ~~A county court is established for~~ **Beginning January 1, 2009, the** Madison ~~County under IC 33-30-2-1.~~ **superior court has a standard small claims and misdemeanor division.**

SECTION 16. IC 33-33-52-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The court has ~~one (1) judge~~ **two (2) judges** who shall hold sessions in:

(1) the Miami County courthouse in Peru; or

(2) other places in the county as the board of county commissioners of Miami County may provide.

SECTION 17. IC 33-33-58-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. **(a)** Dearborn County and Ohio County constitute the seventh judicial circuit.

(b) The judge of the Dearborn and Ohio circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

SECTION 18. IC 33-33-71-69, AS AMENDED BY P.L.1-2007, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 69. (a) The court may appoint two

(2) full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed under this section may be a member of the same political party.

(b) A magistrate continues in office until removed by the judges of the court.

~~(c) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).~~

SECTION 19. IC 33-33-78-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. ~~Jefferson County and~~ **(a)** Switzerland County ~~constitute~~ **constitutes** the ~~fifth~~ **ninety-first** judicial circuit.

(b) The Switzerland circuit court has a standard small claims and misdemeanor division.

SECTION 20. IC 33-39-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a

full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(5) The state may not pay any amount of the annual salary of a chief deputy prosecuting attorney appointed under this section by the prosecuting attorney of the ninety-first judicial circuit.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action

by the appropriate county officials.

(g) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 33-30-2-4; IC 33-33-24-2; IC 33-33-58-1; IC 33-33-58-3; IC 33-33-58-4; IC 33-33-58-5; IC 33-33-58-6; IC 33-33-58-7; IC 33-33-58-8; IC 33-33-58-9; IC 33-33-58-11; IC 33-33-58-12; IC 33-33-58-13; IC 33-33-58-14; IC 33-33-78-1; IC 33-33-78-3; IC 33-33-78-4; IC 33-33-78-5; IC 33-33-78-6; IC 33-33-78-7; IC 33-33-78-8; IC 33-33-78-9; IC 33-33-78-11; IC 33-33-78-12; IC 33-33-78-13; IC 33-33-78-14.

SECTION 22. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 33-33-24-1, as amended by this act, the Franklin circuit court is not expanded to two (2) judges until January 1, 2009.**

(b) The second judge of the Franklin circuit court added by IC 33-33-24-1, as amended by this act, shall be elected at the general election on November 4, 2008, for a term beginning January 1, 2009, and ending December 31, 2014.

(c) A political party may nominate one (1) candidate to be elected judge of the court at the 2008 general election using the candidate vacancy provisions under IC 3-13-1. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(d) This SECTION expires January 1, 2015.

SECTION 23. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 33-30-2-1 and IC 33-33-48-2, both as amended by this act, the:**

(1) Madison county court is not abolished; and

(2) Madison superior court is not expanded from three (3) judges to five (5) judges;

until January 1, 2009.

(b) As of January 1, 2009, the Madison county court is abolished.

(c) Any case pending in the Madison county court after the close of business on December 31, 2008, is transferred on January 1, 2009, to the Madison superior court. All cases transferred under

this SECTION that are eligible to be heard by the standard small claims and misdemeanor division established by IC 33-33-48-11, as amended by this act, shall be transferred to the standard small claims and misdemeanor division of the Madison superior court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in the Madison superior court.

(d) On January 1, 2009, all property and obligations of the Madison county court become the property and obligations of the Madison superior court.

(e) The fourth and fifth judges of the Madison superior court added under IC 33-33-48-2, as amended by this act, shall be the two (2) persons who are elected Madison county court judges on November 4, 2008. The initial elections of the fourth and fifth judges for the Madison superior court, established by IC 33-33-48-2, as amended by this act, shall take place at the general election on November 4, 2014. The terms of the fourth and fifth judges of the Madison superior court elected in November 2014 begin January 1, 2015.

(f) This SECTION expires January 2, 2015.

SECTION 24. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 33-33-52-3, as amended by this act, the Miami superior court is not expanded to two (2) judges until January 1, 2009.**

(b) The governor shall appoint a person under IC 3-13-6-1(f) to serve as the second judge of the Miami superior court added by IC 33-33-52-3, as amended by this act. The term of the initial judge appointed under this subsection begins January 1, 2009, and ends December 31, 2010.

(c) The initial election of the second judge of the Miami superior court added by IC 33-33-52-3, as amended by this act, is the general election on November 2, 2010. The term of the judge initially elected under this subsection begins January 1, 2011.

(d) This SECTION expires January 2, 2011.

SECTION 25. [EFFECTIVE JULY 1, 2008] **(a) As of January 1, 2009, the joint Ohio County and Switzerland County superior court established under IC 33-33-58-3 and IC 33-33-78-3, both before their repeal by this act, is abolished.**

(b) A case or any other matter pending in the joint Ohio County

and Switzerland County superior court after the close of business on December 31, 2008:

(1) that originated in Ohio County shall be transferred to the joint Dearborn County and Ohio County circuit court established under IC 33-33-15-1 and IC 33-33-58-2, both as amended by this act, on January 1, 2009; and

(2) that originated in Switzerland County shall be transferred to the Switzerland County ninety-first judicial circuit court established under IC 33-33-78-2, as amended by this act, on January 1, 2009.

(c) This SECTION expires January 2, 2009.

SECTION 26. [EFFECTIVE JULY 1, 2008] **(a) As of January 1, 2009:**

(1) the joint Jefferson County and Switzerland County fifth judicial circuit court established under IC 33-33-39-1 and IC 33-33-78-2, both before their amendment by this act, is abolished;

(2) the Jefferson County fifth judicial circuit court is established under IC 33-33-39-1, as amended by this act; and

(3) the Switzerland County ninety-first judicial circuit court is established under IC 33-33-78-2, as amended by this act.

(b) A case or any other matter pending in the joint Jefferson County and Switzerland County fifth judicial circuit court after the close of business on December 31, 2008:

(1) that originated in Jefferson County shall be transferred to the Jefferson County fifth judicial circuit court on January 1, 2009; and

(2) that originated in Switzerland County shall be transferred to the Switzerland County ninety-first judicial circuit court on January 1, 2009.

(c) The initial judge of the Jefferson County fifth judicial circuit court shall be the person who is the joint Jefferson County and Switzerland County fifth judicial circuit court judge serving on December 31, 2008. The judge shall serve the remainder of the judge's term as judge of the joint Jefferson County and Switzerland County fifth judicial circuit court serving as judge of the Jefferson County fifth judicial circuit court.

(d) The initial prosecuting attorney of the Jefferson County fifth judicial circuit shall be the person who is the joint Jefferson

County and Switzerland County fifth judicial circuit prosecuting attorney serving on December 31, 2008. The prosecuting attorney shall serve the remainder of the prosecuting attorney's term as prosecuting attorney for the joint Jefferson County and Switzerland County fifth judicial circuit serving as prosecuting attorney for the Jefferson County fifth judicial circuit.

(e) The initial election of a judge for the Switzerland County ninety-first judicial circuit court established by IC 33-33-78-2, as amended by this act, is the general election on November 4, 2008. A political party may nominate one (1) candidate to be elected judge of the court at the 2008 general election using the candidate vacancy provisions under IC 3-13-1. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The term of the judge initially elected under this subsection begins January 1, 2009.

(f) The initial election of a prosecuting attorney for the Switzerland County ninety-first judicial circuit established by IC 33-33-78-2, as amended by this act, is the general election on November 4, 2008. A political party may nominate one (1) candidate to be elected prosecuting attorney at the 2008 general election using the candidate vacancy provisions under IC 3-13-1. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The term of the prosecuting attorney initially elected under this subsection begins January 1, 2009, and ends December 31, 2010.

(g) The election of a prosecuting attorney to a full four (4) year term for the Switzerland County ninety-first judicial circuit established by IC 33-33-78-2, as amended by this act, is the general election on November 2, 2010. The term of a prosecuting attorney elected under this subsection begins January 1, 2011.

(h) This SECTION expires January 2, 2015

P.L.128-2008
[H.1105. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.230-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to

successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), ~~(q),~~ **(r),** and ~~(r),~~ **(s),** a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-2-1-15(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal

basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the

police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

~~(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);~~

~~(3)~~ **(2)** has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

~~(4)~~ **(3)** completed **at any time** a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at

least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

~~(o)~~ **(p) Subject to subsection (q),** an officer to whom subsection (n) **or (o)** applies must successfully complete the refresher course described in subsection (n) **or (o)** not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

~~(p)~~ **(q)** A law enforcement officer who

~~(1) has completed a basic training course certified by the board; and~~

~~(2) has not been employed as a law enforcement officer in the six (6) years before the officer is hired as a law enforcement officer;~~

has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) **or (o)** and must repeat the full basic training course to regain law enforcement powers. **However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).**

~~(q)~~ **(r)** This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A

gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

~~(r)~~ **(s)** This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

SECTION 2. IC 5-10-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), every participant is required to retire on the first day of the month following the participant's ~~sixtieth~~ **sixty-fifth** birthday.

(b) An officer who becomes a participant after becoming fifty (50) years of age is required to retire on the earlier of:

(1) the first day of the month following the participant's sixty-fifth birthday; or

(2) the first day of the month following the completion of ~~ten (10)~~ **fifteen (15)** years of service.

SECTION 3. IC 5-10-5.5-10, AS AMENDED BY P.L.180-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on the participant's normal retirement date, shall be a percentage of the participant's average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of the participant's average annual salary for each completed year of creditable service more than ten (10) years. **However, the annual retirement allowance computed under this subsection may not exceed seventy-five percent (75%) of the participant's average annual salary.**

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.

SECTION 4. IC 5-10-5.5-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.**

(b) As used in this section, "DROP entry date" means the date that a participant's election to enter a DROP becomes effective.

(c) As used in this section, "DROP frozen benefit" refers to an annual retirement allowance computed under section 10 of this chapter based on a participant's:

(1) average annual salary; and

(2) years of creditable service;

on the date the participant enters the DROP.

(d) As used in this section, "DROP retirement date" means the future retirement date selected by a participant at the time the participant elects to enter the DROP.

(e) Only a participant who is eligible to receive an unreduced annual retirement allowance immediately upon termination of employment may elect to enter a DROP. A participant who elects to enter the DROP must agree to the following:

(1) The participant shall execute an irrevocable election to retire on the DROP retirement date and must remain in active service until that date.

(2) While in the DROP, the participant shall continue to make contributions under section 8 of this chapter.

(3) The participant shall select a DROP retirement date not less than twelve (12) months and not more than thirty-six (36) months after the participant's DROP entry date.

(4) The participant may not remain in the DROP after the date the participant reaches the mandatory retirement age under section 9 of this chapter.

(5) The participant may make an election to enter the DROP only once in the participant's lifetime.

(f) Contributions or payments provided by the general assembly under section 4(b)(4) of this chapter continue for a participant while the participant is in the DROP.

(g) A participant shall exit the DROP on the earliest of the following:

(1) The participant's DROP retirement date.

(2) Thirty-six (36) months after the participant's DROP entry date.

(3) The participant's mandatory retirement age.

(4) The date the participant retires because of a disability as provided by subsection (k).

(h) A participant who retires on the participant's DROP retirement date or on the date the participant retires because of a disability as provided by subsection (k) may elect to receive an annual retirement allowance:

(1) computed under section 10 of this chapter as if the participant had never entered the DROP; or

(2) consisting of:

(A) the DROP frozen benefit; plus

(B) an additional amount, paid as the participant elects under subsection (i), determined by multiplying:

(i) the DROP frozen benefit; by

(ii) the number of months the participant was in the DROP.

(i) The participant shall elect, at the participant's retirement, to receive the additional amount calculated under subsection (h)(2)(B) in one (1) of the following ways:

(1) A lump sum paid on:

(A) the participant's DROP retirement date; or

(B) the date the participant retires because of a disability as provided by subsection (k).

(2) Three (3) equal annual payments:

(A) commencing on:

(i) the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k); and

(B) thereafter paid on:

(i) the anniversary of the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k).

(j) A cost of living increase determined under section 21(c) of this chapter does not apply to the additional amount calculated under subsection (h)(2)(B) at the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k). No cost of living increase is applied to a DROP frozen benefit while the participant is in the DROP. After the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k), cost of living increases determined under section 21(c) of this chapter apply to the participant's annual retirement allowance computed under this section.

(k) If a participant becomes disabled, in the line of duty or other than in the line of duty while in the DROP, the participant's annual retirement allowance is computed as follows:

(1) If the participant retires because of a disability less than twelve (12) months after the date the participant enters the

DROP, the participant's annual retirement allowance is calculated as if the participant had never entered the DROP.

(2) If the participant retires because of a disability at least twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated under this section, and the participant's retirement date is the date the member retires because of a disability rather than the participant's DROP retirement date.

(l) If, before payment of the participant's annual retirement allowance begins, the participant dies in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit calculated under subsection (h)(2)(B) is paid in a lump sum to the participant's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the participant's surviving children. If there are no surviving children, the lump sum is paid to the participant's parents. If there are no surviving parents, the lump sum is paid to the participant's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the retirement plan created by this chapter.

(m) Except as provided under subsections (k) and (l), the annual retirement allowance for a participant who exits the DROP for any reason other than retirement on the participant's DROP retirement date is calculated as if the participant had never entered the DROP.

SECTION 5. IC 5-22-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) This section applies to the following surplus property:

(1) Fire trucks.

(2) Emergency service vehicles.

(3) Firefighting or emergency services equipment.

(b) As used in this section, **"fire department" refers to any of the following:**

(1) A volunteer fire department ~~has the meaning set forth~~ **(as defined** in IC 36-8-12-2).

(2) The board of fire trustees of a fire protection district established under IC 36-8-11.

(3) The provider unit of a fire protection territory established

under IC 36-8-19.

(c) Notwithstanding section 4, 4.5, or 5 of this chapter, a governmental body may transfer title of surplus property to a ~~volunteer~~ fire department for the ~~volunteer~~ fire department's use in providing fire protection or emergency services.

(d) A ~~volunteer~~ fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the ~~volunteer~~ fire departments located in the same county as the governmental body may be transferred to any ~~volunteer~~ fire department in Indiana.

(e) A governmental body may transfer title of surplus property to a ~~volunteer~~ fire department under this section by:

(1) sale;

(2) gift; or

(3) another arrangement acceptable to the governmental body and the ~~volunteer~~ fire department.

SECTION 6. IC 36-1-11-5.7, AS ADDED BY P.L.188-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.7. ~~(a) As used in this section, "political subdivision":~~

~~(1) before July 1, 2008, does not include a township in a county having a consolidated city; and~~

~~(2) after June 30, 2008, refers to all political subdivisions.~~

~~(b)~~ **(a)** As used in this section, **"fire department" refers to any of the following:**

(1) A volunteer fire department ~~has the meaning set forth~~ **(as defined** in IC 36-8-12-2).

(2) The board of fire trustees of a fire protection district established under IC 36-8-11.

(3) The provider unit of a fire protection territory established under IC 36-8-19.

~~(c)~~ **(b)** Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a ~~volunteer~~ fire department for construction of a fire station or other purposes related to firefighting.

SECTION 7. IC 36-8-19-8, AS AMENDED BY P.L.47-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In

this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5 for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001.

(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory, the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

(1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and

(2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

SECTION 8. IC 36-8-19-8.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.6. (a) A participating unit may adopt an ordinance or a resolution to transfer any money belonging to the participating unit to:**

(1) the fire protection territory fund established under section 8 of this chapter;

(2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or

(3) both funds described in subdivisions (1) and (2).

(b) An ordinance or a resolution adopted under this section must state both of the following:

(1) The amount of money transferred to either fund.

(2) The source of the money.

(c) The transfer of money from a participating unit to a fire protection territory before July 1, 2008, is legalized.

SECTION 9. IC 36-8-19-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. (a) For purposes of this section, a fire protection territory is dissolved if all participating units withdraw from the fire protection territory as provided in section 13 of this chapter.**

(b) When a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

SECTION 10. [EFFECTIVE UPON PASSAGE] **IC 5-10-5.5-9 and IC 5-10-5.5-10, both as amended by this act, and IC 5-10-5.5-22, as added by this act, apply only to a participant in the state excise police, gaming agent, and conservation enforcement officers' retirement fund who is in active service after June 30, 2008.**

SECTION 11. [EFFECTIVE JANUARY 1, 2009] **(a) As used in this SECTION, "bureau" means the bureau of motor vehicles created by IC 9-14-1-1.**

(b) As used in this SECTION, "council" means the prosecuting attorneys council of Indiana established by IC 33-39-8-2(a).

(c) As used in this SECTION, "e-citation" means an electronic traffic ticket (as defined in IC 9-30-3-2.5).

(d) As used in this SECTION, "institute" means the Indiana

criminal justice institute established by IC 5-2-6-3.

(e) As used in this SECTION, "license" means a commercial driver's license issued according to rules adopted under IC 9-24-6-2.

(f) The institute shall prepare an annual report that studies the following:

(1) Implementation of P.L.219-2003 (incorporating federal law regarding probationary and restricted driving privileges for persons holding a license).

(2) Implementation of P.L.176-2005, SECTIONS 19 through 25 (prosecuting attorney diversion and deferral limitations and the computer system established by the council).

(3) Implementation of P.L.206-2007 (e-citations).

(4) Use in Indiana of:

(A) ignition interlock programs and other alcohol monitoring systems such as SCRAM (Secure Continuous Remote Alcohol Monitor); and

(B) other alcohol abuse deterrent programs.

(5) Procedures and practices regarding license suspensions or granting of restricted or probationary licenses for:

(A) persons holding a license; or

(B) the:

(i) arrest of a person alleged to have; or

(ii) conviction of a person who has;

committed a violation of IC 9-30-5.

(g) To the extent available and permissible, the institute may consult with and use records of the bureau, the council, and the judicial technology and automation committee of the supreme court.

(h) The institute shall transmit the compiled report to the legislative council in an electronic format under IC 5-14-6 not later than November 1 of each year.

(i) This SECTION expires January 1, 2014.

SECTION 12. **An emergency is declared for this act**.

P.L.129-2008
[H.1111. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-21-4-1, AS AMENDED BY P.L.135-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The following must be recorded in the recorder's office of the county where the land is situated:

(1) A conveyance or mortgage of land or of any interest in land.

(2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.

(c) This subsection applies only to a mortgage. **This subsection applies regardless of when a mortgage was recorded.** If:

(1) an instrument referred to in subsection (a) is recorded; and

(2) the instrument does not comply with the:

(A) requirements of:

(i) IC 32-21-2-3; or

(ii) IC 32-21-2-7; or

(B) technical requirements of IC 36-2-11-16(c);

the instrument is validly recorded and provides constructive notice of the contents of the instrument as of the date of filing.

SECTION 2. IC 36-2-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) This section does not apply to:

(1) an instrument executed before November 4, 1943;

(2) a judgment, order, or writ of a court;

(3) a will or death certificate; or

(4) an instrument executed or acknowledged outside Indiana.

(b) Whenever this section prescribes that the name of a person be printed, typewritten, or stamped immediately beneath ~~his~~ **the person's** signature, the signature must be written on the instrument, directly preceding the printed, typewritten, or stamped name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

(c) **Except as provided in subsection (d),** the recorder may receive for record an instrument only if **all of the following requirements are met:**

(1) The name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the person's** signature or the signature itself is printed, typewritten, or stamped.

(2) The name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the** signature **of the witness** or the signature itself is printed, typewritten, or stamped.

(3) The name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath ~~his~~ **the** signature **of the notary public** or the signature itself is printed, typewritten, or stamped. ~~and~~

(4) The name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in ~~his~~ **the person's** signature, and beneath ~~his~~ **the person's** signature.

(5) If the instrument is a copy, the instrument is marked "Copy".

~~or if subsection (d) is complied with.~~

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if **all of the following requirements are met:**

(1) A printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument.

(2) The affidavit complies with this section.

(3) The affidavit states the correct name of a person, if any, whose

signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section. ~~and~~

(4) When the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(5) If the instrument is a copy, the instrument is marked "Copy".

(e) The recorder ~~may~~ **shall** record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

~~All copies accepted for recording shall be marked as copies by the recorder.~~

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. **A recorded copy shall have the same effect as if the original document had been recorded.**

P.L.130-2008

[H.1119. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-4-8, AS AMENDED BY SEA 51-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. ~~(a) As used in this section, "exempt amount" means, in the case of a member who has not attained the Social~~

~~Security normal retirement age for unreduced benefits, thirty-five thousand dollars ($35,000), computed for the calendar year in which a retired public employees' retirement fund member is reemployed and computed for the fiscal year in which a retired teachers' retirement fund member is reemployed.~~

~~(b) This subsection does not apply to a member who is employed by the department of education, to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, or after June 30, 2008, a member of the public employees' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a covered position.~~ **(a)** If a member who is receiving retirement benefits ~~and who has not attained the Social Security normal retirement age for unreduced benefits:~~

~~(1)~~ becomes reemployed in a position covered by this article ~~and~~

~~(2) earns in that position more than the exempt amount;~~

more than thirty (30) days after the member's retirement, the member's retirement benefit payments ~~shall stop, and~~ **continue. Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund,** the member shall begin making contributions as required in IC 5-10.2-3-2, ~~However,~~ **and the member's** employer **shall make** contributions ~~shall be made~~ throughout the **member's** period of reemployment. ~~The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.~~

~~(c)~~ **(b)** If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than

~~(1)~~ thirty (30) days after the member's retirement, ~~for a member of the public employees' retirement fund; or~~

~~(2) thirty (30) days after the member's retirement, for a member of the Indiana state teachers' retirement fund;~~

the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

~~(d)~~ **(c)** This subsection does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30)

days after the member's retirement in a position covered by the Indiana state teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

~~(c)~~ **(d)** The following apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.

~~(f)~~ **(e)** The thirty (30) day period provided for in ~~subsection (c)(2)~~ **this section** may be implemented unless the board of trustees of the ~~Indiana state teachers' retirement~~ fund receives a determination from the Internal Revenue Service prohibiting the implementation.

SECTION 2. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed ~~him~~ **the police chief or fire chief.** This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.

(b) A leave of absence under subsection (a) shall be granted for service in the Indiana general assembly. ~~and~~ **A leave of absence under subsection (a)** may also be granted ~~only~~ **for service in any other elected office or** for one (1) of the following reasons:

(1) Sickness.

(2) Disability.

(3) Sabbatical purposes.

However, a leave of absence because of disability may not be granted to a member of the 1977 fund under this subsection unless a leave granted under subsection (g) has expired without disability benefits having been paid from the 1977 fund. In the case of such an expiration, a leave for purposes of disability may be granted under this subsection but only until the member's eligibility for disability benefits is finally determined.

(c) Before a leave of absence may be granted for sabbatical purposes, the member must submit a written request explaining and justifying the leave to the appointing authority. Sabbatical purposes must be related to the improvement of the member's professional performance and skills, such as education, special training, work related experience, and exchange programs.

(d) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for a period of not more than one (1) year, determined by the appointing authority, and may be renewed upon written request of the member.

(e) This subsection applies to leaves of absence granted for service in ~~the Indiana general assembly. If~~ **an elected office.** A police officer or firefighter **who** serves in the general assembly ~~he~~ shall be granted a leave for the time spent in this service, including the time spent for committee or legislative council meetings. **A police officer or firefighter who serves in any other elected office may be granted a leave for the time spent in this service. Leave for service in an elected office does not diminish a police officer's or firefighter's rights under the police officer's or firefighter's retirement or pension fund, except as provided in section 10 of this chapter, or advancement on the police officer's or firefighter's department salary schedule. For these purposes, the police officer or firefighter is, despite the leave, considered to be a member of the department during that time.**

(f) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals ~~his~~ **the member's** salary before the leave began.

(g) This subsection applies only to members of the 1977 fund. The local board may grant a leave of absence for purposes of disability to

full-time, fully paid police officers or firefighters (including the police chief or fire chief). The leave is subject to the following conditions:

(1) The police chief or fire chief must make a written determination that there is no suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified.

(2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.

(3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.

(4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.

(5) During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

(i) This subsection applies to leaves of absence granted under subsection (a) or (b). An appointing authority shall establish a policy in writing that specifies whether a police officer or firefighter is entitled, during a leave of absence, to participate in any promotional process or earn seniority. A policy established under this subsection is subject to a department's existing disciplinary procedures. An appointing authority shall reinstate a police officer or firefighter returning from a leave at the merit or permanent rank determined under the policy established under this subsection. However, except as otherwise provided by federal law, an appointing authority is not required to reinstate a police officer or firefighter in the job that the police officer or firefighter held at the time the police officer's or firefighter's leave began.

SECTION 3. IC 36-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Except as provided in subsection (b) **or (c),** a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time

spent in full-time employment for all purposes, including retirement and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member.

SECTION 4. IC 36-8-6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:**

(1) be rehired by the same municipality that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 5. IC 36-8-7-12.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.7. (a) Not less than thirty (30) days after a member retires from a fire department covered by this chapter, the member may:**

(1) be rehired by the same unit that employed the member as a firefighter for a position other than that of a full-time, fully paid firefighter; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 6. IC 36-8-7.5-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:**

(1) be rehired by the same consolidated city that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 7. IC 36-8-8-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) Not less than thirty (30) days after a fund member retires from a position covered by this chapter, the fund member may:**

(1) be rehired by the same unit that employed the fund member in a position covered by this chapter for a position not covered by this chapter; and

(2) continue to receive the fund member's retirement benefit under this chapter.

(b) This section may be implemented unless the PERF board receives from the Internal Revenue Service a determination that prohibits the implementation.

P.L.131-2008
[H.1125. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of ~~his~~ **the member's** disability if:

(1) the member has at least five (5) years of creditable service before the:

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or

(B) exhaustion of all worker's compensation benefits;

(2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the member reaches age sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if ~~he~~ **the member** furnishes proof of the qualification to the board of the public employees' retirement fund.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without

reduction for early retirement. ~~However,~~ The monthly disability retirement benefit **payable before July 1, 2008,** may not be less than one hundred dollars ($100). **The monthly disability retirement benefit payable after June 30, 2008, may not be less than one hundred eighty dollars ($180).**

(c) The member may have ~~his~~ **the member's** benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

(1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and

(2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

SECTION 2. IC 6-1.1-1-11, AS AMENDED BY P.L.214-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

(1) nursery stock that has been severed from the ground;

(2) florists' stock of growing crops which are ready for sale as pot plants on benches;

(3) billboards and other advertising devices which are located on

real property that is not owned by the owner of the devices;

~~(4) motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5,~~

~~(5)~~ **(4)** foundations (other than foundations which support a building or structure) on which machinery or equipment:

(A) held for sale in the ordinary course of a trade or business;

(B) held, used, or consumed in connection with the production of income; or

(C) held as an investment;

is installed; ~~and~~

~~(6)~~ **(5)** all other tangible property (other than real property) which is being:

(A) held for sale in the ordinary course of a trade or business;

(B) held, used, or consumed in connection with the production of income; or

(C) held as an investment; **and**

(6) mobile homes that do not qualify as real property and are not described in subdivision (5).

(b) Personal property does not include the following:

(1) Commercially planted and growing crops while ~~they are~~ in the ground.

(2) Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11).

SECTION 3. IC 6-1.1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. **(a) As used in this section, "nonbusiness personal property" means personal property that is not:**

(1) held for sale in the ordinary course of a trade or business;

(2) held, used, or consumed in connection with the production of income; or

(3) held as an investment.

(b) The following property is not subject to assessment and taxation under this article:

(1) A commercial vessel that is subject to the net tonnage tax imposed under IC 6-6-6.

(2) A motor vehicle ~~or trailer~~ that is subject to the annual license

excise tax imposed under IC 6-6-5.

(3) A **motorized** boat **or sailboat** that is subject to the boat excise tax imposed under IC 6-6-11.

(4) Property used by a cemetery (as defined in IC 23-14-33-7) if the cemetery:

(A) does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; and

(B) has had no business transaction during the preceding calendar year.

(5) A commercial vehicle that is subject to the annual excise tax imposed under IC 6-6-5.5.

(6) A recreational vehicle or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1.

(7) The following types of nonbusiness personal property:

(A) All-terrain vehicles.

(B) Snowmobiles.

(C) Rowboats, canoes, kayaks, and other human powered boats.

(D) Invalid chairs.

(E) Yard and garden tractors.

(F) Trailers that are not subject to an excise tax under:

(i) IC 6-6-5-5.5;

(ii) IC 6-6-5.1; or

(iii) IC 6-6-5.5.

SECTION 4. IC 6-1.1-20.6-4, AS AMENDED BY HEA 1001-2008, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. As used in this chapter, "residential property" refers to real property that consists of any of the following:

(1) A single family dwelling that is not part of a homestead and the land, not exceeding one (1) acre, on which the dwelling is located.

(2) Real property that consists of:

(A) a building that includes two (2) or more dwelling units;

(B) any common areas shared by the dwelling units; and

(C) the land, not exceeding the area of the building footprint, on which the building is located.

(3) Land rented or leased for the placement of a manufactured

home or mobile home, **including any common areas shared by the manufactured homes or mobile homes.**

SECTION 5. IC 6-1.1-21.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21.4. Rainy Day Fund Loans for Eligible School Corporations

Sec. 1. As used in this chapter, "board" refers to the state board of finance.

Sec. 2. As used in this chapter, "eligible school corporation" refers to a school corporation located in a county in which distributions of property tax revenue for 2007 or 2008 to the taxing units (as defined in IC 6-1.1-1-21) of the county:

(1) have not been made; or

(2) were delayed by more than sixty (60) days after either due date specified in IC 6-1.1-22-9.

Sec. 3. An eligible school corporation may apply to the board for a loan from the counter-cyclical revenue and economic stabilization fund.

Sec. 4. (a) The board, after review by the budget committee, shall determine the terms of any loan made under this chapter. However, the interest rate on the loan may not exceed one percent (1%).

(b) The total amount of all loans under this chapter for all calendar years may not exceed six million dollars ($6,000,000).

(c) An eligible school corporation receiving a loan under this chapter must repay the loan within seventy-two (72) months after the date on which the loan is made.

(d) The board may disburse in installments the proceeds of a loan made under this chapter.

(e) An eligible school corporation may repay a loan made under this chapter from any sources of revenue.

(f) The obligation to repay a loan made under this chapter is not a basis for an eligible school corporation to obtain an excessive tax levy under IC 6-1.1-19.

(g) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

Sec. 5. The proceeds of a loan received by an eligible school

corporation under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the eligible school corporation for taxes first due and payable during a particular calendar year for the purpose of calculating levy excess.

Sec. 6. A loan under this chapter is not bonded indebtedness for purposes of IC 6-1.1-18.5.

SECTION 6. IC 6-1.1-21.9-3, AS ADDED BY P.L.114-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. (a) The board, not later than December 31, ~~2007,~~ **2009,** and after review by the budget committee, shall determine the terms of a loan made under this chapter, subject to the following:

(1) The board may not charge interest on the loan.

(2) The loan must be repaid not later than ten (10) years after the date on which the loan was made.

(3) The terms of the loan must allow for prepayment of the loan without penalty.

(4) The maximum amount of the loan that a qualifying taxing unit may receive with respect to a default described in section 1(c)(3) of this chapter on one (1) or more payments of property taxes first due and payable in a calendar year is the amount, as determined by the board, of revenue shortfall for the qualifying taxing unit that results from the default for that calendar year.

(5) The total amount of all loans under this chapter for all calendar years may not exceed thirteen million dollars ($13,000,000).

(b) The board may disburse in installments the proceeds of a loan made under this chapter.

(c) A qualified taxing unit may repay a loan made under this chapter from any of the following:

(1) Property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19.

(2) Property tax revenues of the qualified taxing unit that are not subject to levy limitations as provided in IC 6-1.1-18.5-21 or IC 6-1.1-19-13.

(3) The qualified taxing unit's debt service fund.

(4) Any other source of revenues (other than property taxes) that

is legally available to the qualified taxing unit.

The payment of any installment on a loan made under this chapter constitutes a first charge against the property tax revenues described in subdivision (1) or (2) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(d) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(e) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

SECTION 7. IC 6-2.3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Gross receipts do not include a wholesale sale to another generator or reseller of utility services.

(b) A sale is a retail sale if the taxpayer sells utility services to a buyer that subsequently makes a sale described in IC 6-2.3-4-5.

(c) A sale of utility services is a wholesale sale if the utility services are natural gas and the buyer consumes the natural gas in the direct production of electricity to be sold by the buyer.

SECTION 8. IC 6-2.5-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. (a) This section applies to transactions occurring after June 30, 2008.**

(b) A person is a retail merchant making a retail transaction when the person:

(1) leases or rents an aircraft to another person; and

(2) provides flight instruction services to the lessee or renter during the term of the lease or rental.

(c) The amount of the gross retail income attributable to a retail transaction described in subsection (b) is the amount charged by the retail merchant for the lease or rental of the aircraft used in conjunction with the flight instruction services provided to the lessee or renter.

SECTION 9. IC 6-2.5-5-41, AS AMENDED BY P.L.235-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. (a) As used in this section, "qualified media production" has the meaning set forth in IC 6-3.1-32-5.

(b) Except as provided in ~~subsections~~ **subsection** (d), ~~and (c),~~ a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a qualified media production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a qualified media production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property that is:

(1) a qualified production expenditure (as defined in IC 6-3.1-32-6) for which a tax credit is claimed under IC 6-3.1-32; or

(2) acquired for direct use in a qualified media production in Indiana if the transaction occurs after December 31, ~~2008.~~ **2011.**

SECTION 10. IC 6-2.5-6-1, AS AMENDED BY P.L.211-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Except as otherwise provided in this section, each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed one thousand dollars ($1,000). If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department

for the preceding calendar year exceeded one thousand dollars ($1,000), that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering

~~(1)~~ a calendar year, if the retail merchant's ~~average monthly~~ state gross retail and use tax liability in the previous calendar year does not exceed ~~ten dollars ($10);~~

~~(2) a calendar half year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed twenty-five dollars ($25); or~~

~~(3) a calendar quarter, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed seventy-five dollars ($75).~~

one thousand dollars ($1,000). A retail merchant using a reporting period allowed under this subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year ~~or fiscal quarter~~ not corresponding to the calendar year, ~~or calendar quarter,~~ the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal ~~period~~ **year** that corresponds

to the calendar ~~period~~ **year** the merchant is permitted to use under subsection (d). However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

(1) this section;

(2) IC 6-3-4-8; or

(3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

(1) estimated monthly gross retail and use tax liability for the current year; or

(2) average monthly gross retail and use tax liability for the preceding year;

exceeds five thousand dollars ($5,000), the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

~~(h) If a person's gross retail and use tax payment is made by electronic funds transfer, the taxpayer is not required to file a monthly gross retail and use tax return. However, the person shall file a quarterly gross retail and use tax return before the twentieth day after the end of each calendar quarter.~~

~~(i)~~ **(h)** A person:

(1) who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement;

(2) who is not a Model 1, Model 2, or Model 3 seller (as defined in the Streamlined Sales and Use Tax Agreement); and

(3) whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year as determined by the department does not exceed one thousand dollars ($1,000);

is not required to file a monthly gross retail and use tax return.

SECTION 11. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007, SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED

AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as

defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,

subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to

the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

~~*(23)*~~ **(24)** *Subtract income that is:*

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(25) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted

gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

~~*(10)*~~ **(11)** *Subtract income that is:*

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section

816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand

dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand

dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 12. IC 6-3-1-11, AS AMENDED BY P.L.234-2007, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2007.~~ **2008.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2007,~~ **2008,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the

extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2007,~~ **2008,** shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2007,~~ **2008,** that is effective for any taxable year that began before January 1, ~~2007,~~ **2008,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 13. IC 6-3-3-12, AS AMENDED BY P.L.211-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

(e) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

(f) As used in this section, "qualified higher education expenses"

has the meaning set forth in IC 21-9-2-19.5.

(g) As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code ~~that is not a college choice 529 education savings~~ **or to any other similar** plan.

(h) As used in this section, "taxpayer" means:

(1) an individual filing a single return; or

(2) a married couple filing a joint return.

(i) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.

(2) One thousand dollars ($1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(j) A taxpayer is not entitled to a carryback, carryover, or refund of

an unused credit.

(k) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(l) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(m) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(n) Any required repayment under subsection (m) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(o) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

~~(o)~~ **(p)** The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) nonqualified withdrawals made from accounts of a college

choice 529 education savings plan for the taxable year; or

(2) account closings for the taxable year.

SECTION 14. IC 6-3-4-1.5, AS ADDED BY P.L.211-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1.5. **(a)** If a professional preparer files more than one hundred (100) returns in a calendar year for persons described in section 1(1) or 1(2) of this chapter, in the immediately following calendar year the professional preparer shall file returns for persons described in section 1(1) or 1(2) of this chapter in an electronic format specified by the department.

(b) A professional preparer described in subsection (a) is not required to file a return in an electronic format if the taxpayer requests in writing that the return not be filed in an electronic format. Returns filed by a professional preparer under this subsection shall not be used in determining the professional preparer's requirement to file returns in an electronic format.

(c) After December 31, 2010, a professional preparer who does not comply with subsection (a) is subject to a penalty of fifty dollars ($50) for each return not filed in an electronic format, with a maximum penalty of twenty-five thousand dollars ($25,000) per calendar year.

SECTION 15. IC 6-3-4-4.1, AS AMENDED BY P.L.211-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.1. (a) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, **the following apply to estimated tax returns filed and payments made under this subsection:**

(1) In applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(2) Estimated tax for a nonresident alien (as defined in Section

7701 of the Internal Revenue Code) must be computed by applying not more than one (1) exclusion under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4), regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final return for the taxable year.

(b) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than one thousand dollars ($1,000). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(c) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to the lesser of:

(1) twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year; or

(2) the annualized income installment calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(d) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (c) or (f). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

(1) the annualized income installment calculated under subsection

(c); or

(2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(e) The provisions of subsection (c) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (repealed), shall exceed two thousand five hundred dollars ($2,500) for its taxable year.

(f) If the department determines that a corporation's:

(1) estimated quarterly adjusted gross income tax liability for the current year; or

(2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds five thousand dollars ($5,000), after the credit allowed by IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(g) If a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

SECTION 16. IC 6-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) Except as provided in subsection (d) or (l), every employer making payments of wages subject to tax under this article, regardless of the place where such payment is made, who is required under the provisions of the Internal Revenue Code to withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department. The department

shall base its withholding instructions on the adjusted gross income tax rate for persons, on the total rates of any income taxes that the taxpayer is subject to under IC 6-3.5, and on the total amount of exclusions the taxpayer is entitled to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). **However, the withholding instructions on the adjusted gross income of a nonresident alien (as defined in Section 7701 of the Internal Revenue Code) are to be based on applying not more than one (1) withholding exclusion, regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final return for the taxable year.** Such employer making payments of any wages:

(1) shall be liable to the state of Indiana for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from the individual's wages and paid over in compliance or intended compliance with this section; and

(2) shall make return of and payment to the department monthly of the amount of tax which under this article and IC 6-3.5 the employer is required to withhold.

(b) An employer shall pay taxes withheld under subsection (a) during a particular month to the department no later than thirty (30) days after the end of that month. However, in place of monthly reporting periods, the department may permit an employer to report and pay the tax for:

(1) a calendar year reporting period, if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed ten dollars ($10);

(2) a six (6) month reporting period, if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed twenty-five dollars ($25); or

(3) a three (3) month reporting period, if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed seventy-five dollars ($75).

An employer using a reporting period (other than a monthly reporting period) must file the employer's return and pay the tax for a reporting period no later than the last day of the month immediately following the close of the reporting period. If an employer files a combined sales

and withholding tax report, the reporting period for the combined report is the shortest period required under this section, section 8.1 of this chapter, or IC 6-2.5-6-1.

(c) For purposes of determining whether an employee is subject to taxation under IC 6-3.5, an employer is entitled to rely on the statement of an employee as to the employee's county of residence as represented by the statement of address in forms claiming exemptions for purposes of withholding, regardless of when the employee supplied the forms. Every employee shall notify the employee's employer within five (5) days after any change in the employee's county of residence.

(d) A county that makes payments of wages subject to tax under this article:

(1) to a precinct election officer (as defined in IC 3-5-2-40.1); and

(2) for the performance of the duties of the precinct election officer imposed by IC 3 that are performed on election day;

is not required, at the time of payment of the wages, to deduct and retain from the wages the amount prescribed in withholding instructions issued by the department.

(e) Every employer shall, at the time of each payment made by the employer to the department, deliver to the department a return upon the form prescribed by the department showing:

(1) the total amount of wages paid to the employer's employees;

(2) the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code;

(3) the amount of adjusted gross income tax deducted therefrom in accordance with the provisions of this section;

(4) the amount of income tax, if any, imposed under IC 6-3.5 and deducted therefrom in accordance with this section; and

(5) any other information the department may require.

Every employer making a declaration of withholding as provided in this section shall furnish the employer's employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the total amount of adjusted gross income tax and the amount of each income tax, if any, imposed under IC 6-3.5, withheld from the employees, on the forms prescribed by the department.

(f) All money deducted and withheld by an employer shall immediately upon such deduction be the money of the state, and every employer who deducts and retains any amount of money under the

provisions of this article shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in this article. Any employer may be required to post a surety bond in the sum the department determines to be appropriate to protect the state with respect to money withheld pursuant to this section.

(g) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to employers subject to the provisions of this section, and for these purposes any amount deducted or required to be deducted and remitted to the department under this section shall be considered to be the tax of the employer, and with respect to such amount the employer shall be considered the taxpayer. In the case of a corporate or partnership employer, every officer, employee, or member of such employer, who, as such officer, employee, or member is under a duty to deduct and remit such taxes shall be personally liable for such taxes, penalties, and interest.

(h) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for the employee's taxable year which begins in such calendar year, and a return made by the employer under subsection (b) shall be accepted by the department as evidence in favor of the employee of the amount so deducted from the employee's wages. Where the total amount so deducted exceeds the amount of tax on the employee as computed under this article and IC 6-3.5, the department shall, after examining the return or returns filed by the employee in accordance with this article and IC 6-3.5, refund the amount of the excess deduction. However, under rules promulgated by the department, the excess or any part thereof may be applied to any taxes or other claim due from the taxpayer to the state of Indiana or any subdivision thereof. No refund shall be made to an employee who fails to file the employee's return or returns as required under this article and IC 6-3.5 within two (2) years from the due date of the return or returns. In the event that the excess tax deducted is less than one dollar ($1), no refund shall be made.

(i) This section shall in no way relieve any taxpayer from the taxpayer's obligation of filing a return or returns at the time required under this article and IC 6-3.5, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such

taxpayer, such unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(j) Notwithstanding subsection (b), an employer of a domestic service employee that enters into an agreement with the domestic service employee to withhold federal income tax under Section 3402 of the Internal Revenue Code may withhold Indiana income tax on the domestic service employee's wages on the employer's Indiana individual income tax return in the same manner as allowed by Section 3510 of the Internal Revenue Code.

(k) To the extent allowed by Section 1137 of the Social Security Act, an employer of a domestic service employee may report and remit state unemployment insurance contributions on the employee's wages on the employer's Indiana individual income tax return in the same manner as allowed by Section 3510 of the Internal Revenue Code.

(l) The department shall adopt rules under IC 4-22-2 to exempt an employer from the duty to deduct and remit from the wages of an employee adjusted gross income tax withholding that would otherwise be required under this section whenever:

(1) an employee has at least one (1) qualifying child, as determined under Section 32 of the Internal Revenue Code;

(2) the employee is eligible for an earned income tax credit under IC 6-3.1-21;

(3) the employee elects to receive advance payments of the earned income tax credit under IC 6-3.1-21 from money that would otherwise be withheld from the employee's wages for adjusted gross income taxes; and

(4) the amount that is not deducted and remitted is distributed to the employee, in accordance with the procedures prescribed by the department, as an advance payment of the earned income tax credit for which the employee is eligible under IC 6-3.1-21.

The rules must establish the procedures and reports required to carry out this subsection.

(m) A person who knowingly fails to remit trust fund money as set forth in this section commits a Class D felony.

SECTION 17. IC 6-3.1-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) **Except as provided by subsection (b),** an individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code is

eligible for a credit under this chapter equal to six percent (6%) of the amount of the federal earned income tax credit that the individual:

(1) is eligible to receive in the taxable year; and

(2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code.

(b) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the amount of the credit is equal to the product of:

(1) the amount determined under subsection (a); multiplied by

(2) the quotient of the taxpayer's income taxable in Indiana divided by the taxpayer's total income.

~~(b)~~ **(c)** If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

SECTION 18. IC 6-3.1-32-9, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) Subject to subsection (b),** a qualified applicant that:

(1) incurs or makes qualified production expenditures of:

(A) at least one hundred thousand dollars ($100,000), in the case of a qualified media production described in section 5(a)(1) of this chapter; or

(B) at least fifty thousand dollars ($50,000), in the case of a qualified media production described in section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter; and

(2) satisfies the requirements of this chapter;

~~is entitled to~~ **may claim** a refundable tax credit as provided in this chapter.

(b) The maximum amount of tax credits that may be allowed under this chapter during a state fiscal year for all taxpayers is five million dollars ($5,000,000).

SECTION 19. IC 6-3.1-32-11, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. **(a)** This section applies to a taxpayer that claims qualified production expenditures of at least six million dollars ($6,000,000) in a taxable year for purposes of the tax credit under this chapter.

~~If the corporation approves the granting of a tax credit to the taxpayer~~ **(b) Subject to section 9(b) of this chapter and the corporation's approval of a tax credit for the taxpayer** under section 13 of this chapter, ~~the amount of the tax credit to which the~~ **a** taxpayer ~~is entitled~~ **may claim a tax credit** under this chapter **that** equals the product of:

(1) the percentage determined by the corporation under section 13 of this chapter; multiplied by

(2) the amount of the taxpayer's qualified production expenditures in the taxable year.

SECTION 20. IC 6-3.1-32-13, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A taxpayer that proposes to claim a tax credit under section 11 of this chapter must, before incurring or making the qualified production expenditures, apply to the corporation for approval of the tax credit.

(b) After receiving an application under subsection (a), the corporation may enter into an agreement with the applicant for a tax credit under section 11 of this chapter if the corporation determines that:

(1) the applicant's proposed qualified media production:

(A) is economically viable; and

(B) will increase economic growth and job creation in Indiana; and

(2) the applicant's proposed qualified media production and qualified production expenditures otherwise satisfy the requirements of this chapter.

(c) If the corporation and an applicant enter into an agreement under this section, the agreement must specify the following:

(1) The percentage to be used under section 11(1) of this chapter in determining the amount of the tax credit. The percentage may not be more than fifteen percent (15%).

(2) Any requirements or restrictions that the applicant must satisfy before the applicant may claim the tax credit.

~~(d) The maximum amount of tax credits that the corporation may approve under this section during a particular taxable year for all taxpayers is five million dollars ($5,000,000).~~

SECTION 21. IC 6-6-5-9, AS AMENDED BY P.L.184-2007,

SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The bureau, in the administration and collection of the annual license excise tax imposed by this chapter, may utilize the services and facilities of license branches operated under IC 9-16 in its administration of the motor vehicle registration laws of the state of Indiana. The license branches may be so utilized in accordance with such procedures, in such manner, and to such extent as the bureau shall deem necessary and proper to implement and effectuate the administration and collection of the excise tax imposed by this chapter. However, in the event the bureau shall utilize such license branches in the collection of excise tax, the following apply:

(1) The excise taxes so collected by each license branch, less any refunds made by the license branch, shall be deposited daily by the license branch ~~in a separate account~~ in a depository duly designated by the state board of finance. The county treasurer of the county for which the collections are due may withdraw funds from the account at least two (2) times each week. The county treasurer is responsible for the safekeeping and investment of money withdrawn by the county treasurer under this subsection. Before the eleventh day of the month following the month in which the collections are made, the bureau of motor vehicles shall report the excise taxes collected and refunds made outside the county to the county treasurer of the county to which the collections are due and the refunds apply. The bureau shall forward a copy of this excise tax report to the county auditor of the county.

(2) A license branch shall each week forward a report to the county auditor of the county to whom the collections are due, showing the excise tax collected on each vehicle, each refund on a vehicle, and a copy of each registration certificate for all collections and refunds within the county.

(3) Each license branch shall also report to the bureau all excise taxes collected and refunds made under this chapter in the same manner and at the same time as registration fees are reported.

(4) Premiums for insurance to protect the funds collected by license branches against theft shall be paid by the bureau, except that the bureau may issue blanket coverage for all branches at its discretion. At the discretion of the bureau, the bureau may:

(A) self-insure to cover the activities of the license branches; or

(B) rather than purchase a bond or crime policy for each branch, purchase a single blanket bond or crime insurance policy endorsed to include faithful performance to cover all branches.

(5) If the services of a license branch are used by the bureau in the collection of the excise tax imposed by this chapter, the license branch shall collect the service charge prescribed under IC 9-29 for each vehicle registered upon which an excise tax is collected by that branch.

(6) If the excise tax imposed by this chapter is collected by the department of state revenue, the money collected shall be deposited in the state general fund to the credit of the appropriate county and reported to the bureau of motor vehicles on the first working day following the week of collection. Except as provided in subdivision (7), any amount collected by the department which represents interest or a penalty shall be retained by the department and used to pay its costs of enforcing this chapter.

(7) This subdivision applies only to interest or a penalty collected by the department of state revenue from a person who:

(A) fails to properly register a vehicle as required by IC 9-18 and pay the tax due under this chapter; and

(B) during any time after the date by which the vehicle was required to be registered under IC 9-18 displays on the vehicle a license plate issued by another state.

The total amount collected by the department that represents interest or a penalty, minus a reasonable amount determined by the department to represent its administrative expenses, shall be deposited in the state general fund for the credit of the county in which the person resides. The amount shall be reported to the bureau of motor vehicles on the first working day following the week of collection.

The bureau may contract with a bank card or credit card vendor for acceptance of bank or credit cards.

(b) On or before April 1 of each year the bureau shall provide to the auditor of state the amount of motor vehicle excise taxes collected for each county for the preceding year.

(c) On or before May 10 and November 10 of each year the auditor of state shall distribute to each county one-half (1/2) of:

(1) the amount of delinquent taxes; and

(2) any penalty or interest described in subsection (a)(7);

that have been credited to the county under subsection (a). There is appropriated from the state general fund the amount necessary to make the distributions required by this subsection. The county auditor shall apportion and distribute the delinquent tax distributions to the taxing units in the county at the same time and in the same manner as excise taxes are apportioned and distributed under section 10 of this chapter.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

SECTION 22. IC 6-6-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 5.1. Excise Tax on Recreational Vehicles and Truck Campers

Sec. 1. This chapter does not apply to the following:

(1) A vehicle subject to the motor vehicle excise tax under IC 6-6-5.

(2) A vehicle owned or leased and operated by the United States, the state, or a political subdivision of the state.

(3) A mobile home.

(4) A vehicle assessed under IC 6-1.1-8.

(5) A vehicle subject to the commercial vehicle excise tax under IC 6-6-5.5.

(6) A trailer subject to the annual excise tax imposed under IC 6-6-5-5.5.

(7) A bus (as defined in IC 9-13-2-17(a)).

(8) A vehicle owned or leased and operated by a postsecondary educational institution (as described in IC 6-3-3-5(d)).

(9) A vehicle owned or leased and operated by a volunteer fire department (as defined in IC 36-8-12-2).

(10) A vehicle owned or leased and operated by a volunteer emergency ambulance service that:

(A) meets the requirements of IC 16-31; and

(B) has only members who serve for no compensation or a

nominal annual compensation of not more than three thousand five hundred dollars ($3,500).

(11) A vehicle that is exempt from the payment of registration fees under IC 9-18-3-1.

(12) A farm wagon.

(13) A recreational vehicle or truck camper in the inventory of recreational vehicles and truck campers held for sale by a manufacturer, distributor, or dealer in the course of business.

Sec. 2. As used in this chapter, "bureau" refers to the bureau of motor vehicles.

Sec. 3. As used in this chapter, "last preceding annual excise tax liability" means the amount of excise tax liability to which a recreational vehicle or truck camper was subject on the owner's last preceding regular annual registration date or to which:

(1) the recreational vehicle would have been subject if the recreational vehicle had been registered; or

(2) the truck camper would have been subject if the truck camper had been owned by the owner and located in Indiana;

on the owner's last preceding regular annual registration date.

Sec. 4. As used in this chapter, "mobile home" has the meaning set forth in IC 6-1.1-7-1.

Sec. 5. As used in this chapter, "owner" means:

(1) in the case of a recreational vehicle, the person in whose name the recreational vehicle is registered under IC 9-18; or

(2) in the case of a truck camper, the person holding title to the truck camper.

Sec. 6. As used in this chapter, "recreational vehicle" has the meaning set forth in IC 9-13-2-150(a).

Sec. 7. As used in this chapter, "trailer" has the meaning set forth in IC 6-6-5-1(h).

Sec. 8. As used in this chapter, "truck camper" means a device without motive power that is installed in the bed of a truck to provide living quarters for persons traveling on public highways.

Sec. 9. As used in this chapter, "vehicle" has the meaning set forth in IC 9-13-2-196(a).

Sec. 10. (a) Beginning January 1, 2010, there is imposed an annual license excise tax on recreational vehicles and truck campers. The excise tax is imposed instead of the ad valorem property tax levied for state or local purposes but in addition to

any registration fees imposed on recreational vehicles.

(b) The tax imposed by this chapter is a listed tax and subject to IC 6-8.1.

(c) A recreational vehicle subject to this chapter may not be assessed as personal property for the purpose of the assessment and levy of personal property taxes after December 31, 2008, and is not subject to ad valorem taxes first due and payable after December 31, 2009, regardless of whether the recreational vehicle is registered under the state motor vehicle registration laws. A person may not be required to give proof of the payment of ad valorem taxes as a condition to the registration of a recreational vehicle subject to the tax imposed by this chapter.

(d) A truck camper subject to this chapter may not be assessed as personal property for the purpose of the assessment and levy of personal property taxes after December 31, 2008, and is not subject to ad valorem taxes first due and payable after December 31, 2009.

Sec. 11. As the basis for measuring the tax imposed by this chapter, the bureau shall determine the value of each recreational vehicle and truck camper as of the time it is first offered for sale in Indiana as a new recreational vehicle or truck camper. The bureau shall adopt rules under IC 4-22-2 for determining the value of recreational vehicles and truck campers by using:

(1) the factory advertised delivered price or the port of entry price; or

(2) any other information available.

Sec. 12. After determining the value of a recreational vehicle or truck camper under section 11 of this chapter, the bureau shall classify every recreational vehicle and truck camper in its proper class by value according to the following classification plan:

Class	**I**	**less than $2,250**	
Class	**II**	**at least $ 2,250**	**but less than $ 4,000**
Class	**III**	**at least $ 4,000**	**but less than $ 7,000**
Class	**IV**	**at least $ 7,000**	**but less than $ 10,000**
Class	**V**	**at least $10,000**	**but less than $ 15,000**
Class	**VI**	**at least $15,000**	**but less than $ 22,000**
Class	**VII**	**at least $22,000**	**but less than $ 30,000**
Class	**VIII**	**at least $30,000**	**but less than $ 42,500**
Class	**IX**	**at least $42,500**	**but less than $ 50,000**
Class	**X**	**at least $50,000**	**but less than $ 60,000**

Class	**XI**	**at least $60,000**	**but less than $ 70,000**
Class	**XII**	**at least $70,000**	**but less than $ 80,000**
Class	**XIII**	**at least $80,000**	**but less than $ 90,000**
Class	**XIV**	**at least $90,000**	**but less than $100,000**
Class	**XV**	**at least $100,000**	**but less than $150,000**
Class	**XVI**	**at least $150,000**	**but less than $200,000**
Class	**XVII**	**at least $200,000**	

Sec. 13. (a) Subject to any reductions permitted under this chapter, the amount of tax imposed under this chapter on a recreational vehicle or truck camper is prescribed by the schedule set out in subsection (c). The amount of tax imposed by this chapter is determined using:

(1) the classification of the recreational vehicle or truck camper under section 12 of this chapter; and

(2) the age of the recreational vehicle or truck camper.

(b) If a person who owns a recreational vehicle or truck camper is entitled to an ad valorem property tax assessed valuation deduction under IC 6-1.1-12-13, IC 6-1.1-12-14, IC 6-1.1-12-16, or IC 6-1.1-12-17.4 in a year in which a tax is imposed by this chapter and any part of the deduction is unused after allowance of the deduction on real property and personal property owned by the person, the person is entitled to a credit that reduces the annual tax imposed by this chapter. The amount of the credit is determined by multiplying the amount of the unused deduction by two (2) and dividing the result by one hundred (100). The county auditor shall, upon request, furnish a certified statement to the person verifying the credit allowable under this subsection. The statement shall be presented to and retained by the bureau to support the credit.

(c) The tax schedule for each class of recreational vehicles and truck campers is as follows:

Year of Manufacture	**I**	**II**	**III**	**IV**	**V**
1st	**$15**	**$36**	**$50**	**$59**	**$103**
2nd	**12**	**31**	**43**	**51**	**91**
3rd	**12**	**26**	**35**	**41**	**75**
4th	**12**	**20**	**28**	**38**	**62**
5th	**12**	**15**	**20**	**34**	**53**
6th	**12**	**12**	**15**	**26**	**41**
7th	**12**	**12**	**12**	**16**	**32**

8th	**12**	**12**	**12**	**13**	**21**
9th	**12**	**12**	**12**	**12**	**13**
10th and thereafter	**12**	**12**	**12**	**12**	**12**

Year of Manufacture	**VI**	**VII**	**VIII**
1st	**$164**	**$241**	**$346**
2nd	**148**	**212**	**302**
3rd	**131**	**185**	**261**
4th	**110**	**161**	**223**
5th	**89**	**131**	**191**
6th	**68**	**108**	**155**
7th	**53**	**86**	**126**
8th	**36**	**71**	**97**
9th	**23**	**35**	**48**
10th and thereafter	**12**	**12**	**17**

Year of Manufacture	**IX**	**X**	**XI**	**XII**
1st	**$470**	**$667**	**$879**	**$1,045**
2nd	**412**	**572**	**763**	**907**
3rd	**360**	**507**	**658**	**782**
4th	**307**	**407**	**574**	**682**
5th	**253**	**341**	**489**	**581**
6th	**204**	**279**	**400**	**475**
7th	**163**	**224**	**317**	**377**
8th	**116**	**154**	**214**	**254**
9th	**55**	**70**	**104**	**123**
10th and thereafter	**25**	**33**	**46**	**55**

Year of Manufacture	**XIII**	**XIV**	**XV**	**XVI**	**XVII**
1st	**$1,235**	**$1,425**	**$1,615**	**$1,805**	**$2,375**
2nd	**1,072**	**1,236**	**1,401**	**1,566**	**2,060**
3rd	**924**	**1,066**	**1,208**	**1,350**	**1,777**
4th	**806**	**929**	**1,053**	**1,177**	**1,549**
5th	**687**	**793**	**898**	**1,004**	**1,321**
6th	**562**	**648**	**734**	**821**	**1,080**
7th	**445**	**514**	**582**	**651**	**856**

8th	**300**	**346**	**392**	**439**	**577**
9th	**146**	**168**	**190**	**213**	**280**
10th	**64**	**74**	**84**	**94**	**123**

and thereafter.

(d) Each recreational vehicle or truck camper shall be taxed as a recreational vehicle or truck camper in its first year of manufacture throughout the calendar year in which a recreational vehicle or truck camper of that make and model is first offered for sale in Indiana. However, a recreational vehicle or truck camper of a make and model first offered for sale in Indiana after August 1 of any year continues to be taxed as a recreational vehicle or truck camper in its first year of manufacture until the end of the calendar year following the year in which it is first offered for sale. Thereafter, the recreational vehicle or truck camper shall be considered to have aged one (1) year as of January 1 of each year.

Sec. 14. (a) Except as otherwise provided in this chapter, the tax imposed on a recreational vehicle by this chapter is payable for each registration year by the owner with respect to a recreational vehicle required to be registered for the registration year as provided in the state motor vehicle laws. Except as provided in section 15 of this chapter, the tax is due on or before the regular annual registration date in each year on or before which the owner is required under the state motor vehicle registration laws to register vehicles. The tax shall be paid to the bureau at the time the recreational vehicle is registered by the owner as provided in the state motor vehicle registration laws. A recreational vehicle subject to taxation under this chapter shall be registered by the owner as being taxable in the county of the owner's residence. The payment of the tax imposed by this chapter is a condition to the right to register or reregister the recreational vehicle and is in addition to all other conditions prescribed by law.

(b) The tax imposed on a truck camper by this chapter is due on or before the annual registration date in each year on or before which the owner is required under the state motor vehicle registration laws to register vehicles. The tax on the truck camper must be paid to the bureau. A truck camper subject to taxation under this chapter is taxable in the county of the owner's residence.

(c) A voucher from the department of state revenue showing payment of the tax imposed by this chapter may be accepted by the

bureau instead of a payment under subsection (a).

Sec. 15. (a) This section applies only to recreational vehicles.

(b) With respect to a recreational vehicle that has been acquired, has been brought into Indiana, or for any other reason becomes subject to registration after the regular annual registration date in the year on or before which the owner of the recreational vehicle is required under the state motor vehicle registration laws to register vehicles, the tax imposed by this chapter is due and payable at the time the recreational vehicle is acquired, is brought into Indiana, or otherwise becomes subject to registration. The amount of tax to be paid by the owner for the remainder of the year shall be reduced by ten percent (10%) for each full calendar month that has elapsed since the regular annual registration date in the year fixed by the state motor vehicle registration laws for annual registration by the owner. The tax shall be paid at the time of the registration of the recreational vehicle.

(c) If a recreational vehicle is acquired, is brought into Indiana, or for any other reason becomes subject to registration after January 1 of any year, the owner may pay the applicable registration fee on the recreational vehicle as provided in the state motor vehicle registration laws and may pay any excise tax due on the recreational vehicle for the remainder of the annual registration year and simultaneously register the recreational vehicle and pay the applicable registration fee and the excise tax due for the next succeeding annual registration year.

(d) Except as provided in subsection (h), a reduction in the applicable annual excise tax may not be allowed to an Indiana resident applicant upon registration of a recreational vehicle that was owned by the applicant on or before the first day of the applicant's annual registration period. A recreational vehicle that is owned by an Indiana resident applicant and that was located in and registered for use in another state during the same calendar year is entitled to the same reduction when registered in Indiana.

(e) The owner of a recreational vehicle who sells the recreational vehicle in a year in which the owner has paid the tax imposed by this chapter shall receive a credit equal to the remainder of:

(1) the tax paid for the recreational vehicle; minus

(2) ten percent (10%) for each full or partial calendar month

that has elapsed in the owner's annual registration year before the date of the sale.

The credit shall be applied to the tax due on any other recreational vehicle purchased or subsequently registered by the owner in the owner's annual registration year. If the credit is not fully used and the amount of the credit remaining is at least four dollars ($4), the owner is entitled to a refund in the amount of the unused credit. The owner must pay a fee of three dollars ($3) to the bureau to cover costs of providing the refund, which may be deducted from the refund. The bureau shall issue the refund. The bureau shall transfer three dollars ($3) of the fee to the bureau of motor vehicles commission to cover the commission's costs in processing the refund. To claim the credit and refund provided by this subsection, the owner of the recreational vehicle must present to the bureau proof of sale of the recreational vehicle.

(f) Subject to the requirements of subsection (g), if a recreational vehicle is destroyed in a year in which the owner has paid the tax imposed by this chapter and the recreational vehicle is not replaced by a replacement vehicle for which a credit is issued under this section, the owner is entitled to a refund in an amount equal to ten percent (10%) of the tax paid for each full calendar month remaining in the owner's annual registration year after the date of destruction, but only upon presentation or return to the bureau of the following:

(1) A request for refund on a form furnished by the bureau.

(2) A statement of proof of destruction on an affidavit furnished by the bureau.

(3) The license plate from the recreational vehicle.

(4) The registration from the recreational vehicle.

However, the refund may not exceed ninety percent (90%) of the tax paid on the destroyed recreational vehicle. The amount shall be refunded by a warrant issued by the auditor of the county that received the excise tax revenue and shall be paid out of the special account created under section 21 of this chapter for settlement of the excise tax collections. For purposes of this subsection, a recreational vehicle is considered destroyed if the cost of repair of damages suffered by the recreational vehicle exceeds the recreational vehicle's fair market value.

(g) To claim a refund under subsection (f) for a recreational

vehicle that is destroyed, the owner of the recreational vehicle must present to the bureau a valid registration for the recreational vehicle within ninety (90) days after the date that the recreational vehicle is destroyed. The bureau shall then fix the amount of the refund that the owner is entitled to receive.

(h) If the name of the owner of a recreational vehicle is legally changed and the change has caused a change in the owner's annual registration date, the excise tax liability of the owner for the recreational vehicle shall be adjusted as follows:

(1) If the name change requires the owner to register sooner than the owner would have been required to register if there had been no name change, the owner is, at the time the name change is reported, entitled to a refund from the county treasurer in the amount of the product of:

(A) ten percent (10%) of the owner's last preceding annual excise tax liability; multiplied by

(B) the number of full calendar months beginning after the owner's new regular annual registration month and ending before the next succeeding regular annual registration month that is based on the owner's former name.

(2) If the name change requires the owner to register later than the owner would have been required to register if there had been no name change, the recreational vehicle is subject to excise tax for the period beginning after the month in which the owner would have been required to register if there had been no name change and ending before the owner's new regular annual registration month in the amount of the product of:

(A) ten percent (10%) of the owner's excise tax liability computed as of the time the owner would have been required to register if there had been no name change; multiplied by

(B) the number of full calendar months beginning after the month in which the owner would have been required to register if there had been no name change and ending before the owner's new regular annual registration month.

Sec. 16. (a) This section applies only to truck campers.

(b) With respect to a truck camper that has been acquired, has been brought into Indiana, or for any other reason becomes subject

to taxation after the regular annual registration date in the year on or before which the owner of the truck camper is required under the state motor vehicle registration laws to register vehicles, the tax imposed by this chapter is due and payable at the time the truck camper is acquired, is brought into Indiana, or otherwise becomes subject to taxation under this chapter. The amount of tax to be paid by the owner for the remainder of the year shall be reduced by ten percent (10%) for each full calendar month that has elapsed since the regular annual registration date in the year fixed by the state motor vehicle registration laws for annual registration by the owner. The tax shall be paid within thirty (30) days after the date on which the truck camper is acquired, is brought into Indiana, or otherwise becomes subject to taxation under this chapter.

(c) If a truck camper is acquired, is brought into Indiana, or for any other reason becomes subject to taxation under this chapter after January 1 of any year, the owner may pay any excise tax due on the truck camper for the remainder of the annual registration year and simultaneously pay the excise tax due for the next succeeding annual registration year.

(d) The owner of a truck camper who sells the truck camper in a year in which the owner has paid the tax imposed by this chapter shall receive a credit equal to the remainder of:

(1) the tax paid for the truck camper; reduced by

(2) ten percent (10%) for each full or partial calendar month that has elapsed in the owner's annual registration year before the date of the sale.

The credit shall be applied to the tax due on any other truck camper acquired by the owner in the owner's annual registration year. If the credit is not fully used and the amount of the credit remaining is at least four dollars ($4), the owner is entitled to a refund in the amount of the unused credit. The owner must pay a fee of three dollars ($3) to the bureau to cover the costs of providing the refund, which may be deducted from the refund. The bureau shall issue the refund. The bureau shall transfer three dollars ($3) of the fee to the bureau of motor vehicles commission to cover the commission's costs in processing the refund. To claim the credit and refund provided by this subsection, the owner of the truck camper must present to the bureau proof of sale of the truck camper.

(e) Subject to the requirements of subsection (f), if a truck camper is destroyed in a year in which the owner has paid the tax imposed by this chapter and the truck camper is not replaced by a replacement truck camper for which a credit is issued under this section, the owner is entitled to a refund in an amount equal to ten percent (10%) of the tax paid for each full calendar month remaining in the owner's annual registration year after the date of destruction, but only upon presentation or return to the bureau of the following:

(1) A request for refund on a form furnished by the bureau.

(2) A statement of proof of destruction on an affidavit furnished by the bureau.

However, the refund may not exceed ninety percent (90%) of the tax paid on the destroyed truck camper. The amount shall be refunded by a warrant issued by the auditor of the county that received the excise tax revenue and shall be paid out of the special account created under section 21 of this chapter for settlement of the excise tax collections. For purposes of this subsection, a truck camper is considered destroyed if the cost of repair of damages suffered by the truck camper exceeds the truck camper's fair market value.

(f) To claim a refund under subsection (e) for a truck camper that is destroyed, the owner of the truck camper must present to the bureau a valid receipt for the excise tax paid under this chapter on the truck camper within ninety (90) days after the date that the truck camper is destroyed. The bureau shall then fix the amount of the refund that the owner is entitled to receive.

(g) If the name of the owner of a truck camper is legally changed and the change has caused a change in the owner's annual registration date, the excise tax liability of the owner for the truck camper shall be adjusted as follows:

(1) If the name change requires the owner to register a motor vehicle sooner than the owner would have been required to register if there had been no name change, the owner is, at the time the name change is reported, entitled to a refund from the county treasurer in the amount of the product of:

(A) ten percent (10%) of the owner's last preceding annual excise tax liability; multiplied by

(B) the number of full calendar months beginning after the

owner's new regular annual registration month and ending before the next succeeding regular annual registration month that is based on the owner's former name.

(2) If the name change requires the owner to register a motor vehicle later than the owner would have been required to register if there had been no name change, the truck camper is subject to excise tax for the period beginning after the month in which the owner would have been required to register if there had been no name change and ending before the owner's new regular annual registration month in the amount of the product of:

(A) ten percent (10%) of the owner's excise tax liability computed as of the time the owner would have been required to register a motor vehicle if there had been no name change; multiplied by

(B) the number of full calendar months beginning after the month in which the owner would have been required to register a motor vehicle if there had been no name change and ending before the owner's new regular annual registration month.

Sec. 17. (a) This section applies only to recreational vehicles.

(b) The owner of a recreational vehicle registered with the bureau is entitled to a refund of taxes paid under this chapter if, after the owner's regular registration date, the owner:

(1) registers the recreational vehicle for use in another state; and

(2) pays tax for use of the recreational vehicle to another state for the same period for which the tax was paid under this chapter.

(c) The refund provided under subsection (b) is equal to:

(1) the annual license excise tax paid for use of the recreational vehicle by the owner of the vehicle for the year; minus

(2) ten percent (10%) of the annual license excise tax paid for use of the recreational vehicle for each full or partial calendar month beginning after the date the annual license excise tax was due and ending before the date the owner registered the recreational vehicle for use in another state.

(d) To claim the refund provided by this section, the owner of

the recreational vehicle must provide the bureau with:

(1) a request for a refund on a form furnished by the bureau; and

(2) proof that a tax described in subsection (b)(2) was paid.

Sec. 18. (a) This section applies only to truck campers.

(b) The owner of a truck camper is entitled to a refund of taxes paid under this chapter if, after the owner's regular vehicle registration date:

(1) the owner moves and registers the truck on which the truck camper is installed for use in another state;

(2) the owner pays tax for use of the truck camper to another state for the same period for which the tax was paid under this chapter; and

(3) the truck camper is located and used in the other state for the same period for which the tax was paid under this chapter.

(c) The refund provided under subsection (b) is equal to:

(1) the annual excise tax paid for use of the truck camper by the owner of the truck camper for the year; minus

(2) ten percent (10%) of the annual excise tax paid for use of the truck camper for each full or partial calendar month beginning after the date the annual excise tax was due and ending before the date the owner registered the truck for use in another state.

Sec. 19. (a) To claim a credit or refund, or both, under this chapter, a person must provide a sworn statement to the bureau or to an agent branch of the bureau that the person is entitled to the credit or refund, or both, claimed by the person.

(b) The bureau may inspect records of a person claiming a credit or refund, or both, under this chapter to determine if a credit or refund, or both, were properly allowed against the excise tax imposed on a recreational vehicle or truck camper owned by the person.

(c) If the bureau determines that a credit or refund, or both, were improperly allowed for a recreational vehicle or truck camper, the person who claimed the credit or refund, or both, shall pay the bureau an amount equal to the credit or refund, or both, improperly allowed to the person plus a penalty of ten percent (10%) of the credit or refund, or both, improperly allowed. The tax

collected under this subsection shall be paid to the county treasurer of the county in which the person resides. However, a penalty collected under this subsection shall be retained by the bureau.

Sec. 20. (a) The bureau shall include on all registration forms for recreational vehicles suitable spaces for the applicant's Social Security number or federal tax identification number, the amount of the registration fee, the amount of excise tax, the amount of a credit, if any, provided under section 13 of this chapter, and the total amount of payment due on account of the applicable registration fees and excise taxes upon the registration of the recreational vehicle. The forms must include spaces for showing the county, city or town, township, and address of the owner's residence.

(b) The bureau shall list on all registration forms for recreational vehicles the amount of registration fees and taxes due. In addition, the bureau shall prepare by December 1 of each year a schedule showing the excise tax payable on each make and model of recreational vehicle or truck camper.

Sec. 21. (a) The bureau, in the administration and collection of the tax imposed by this chapter, may use the services and facilities of license branches operated under IC 9-16 in the bureau's administration of the state motor vehicle registration laws. The license branches may be used in the manner and to the extent the bureau considers necessary and proper to implement and effectuate the administration and collection of the excise tax imposed by this chapter. However, if the bureau uses the license branches in the collection of excise taxes, the following apply:

(1) The excise taxes collected by each license branch, less any refunds made by the license branch, shall be deposited daily by the license branch in a separate account in a depository designated by the state board of finance. The county treasurer of the county for which the collections are due may withdraw funds from the account at least two (2) times each week. The county treasurer is responsible for the safekeeping and investment of money withdrawn by the county treasurer under this subdivision. Before the eleventh day of the month following the month in which the collections are made, the bureau shall report the excise taxes collected and refunds made outside the county to the county treasurer of the county

to which the collections are due and the refunds apply. The bureau shall forward a copy of the excise tax report to the county auditor of the county.

(2) A license branch shall each week forward a report to the county auditor of the county to which the collections are due, showing the excise tax collected by the license branch on each recreational vehicle or truck camper, each refund made by the license branch on a recreational vehicle or truck camper, and a copy of each registration certificate for all collections and refunds of excise tax by the license branch within the county.

(3) Each license branch shall report to the bureau all excise taxes collected and refunds made by the license branch under this chapter in the same manner and at the same time as registration fees are reported.

(4) Premiums for insurance to protect the funds collected by license branches against theft shall be paid by the bureau, except that the bureau may issue blanket coverage for all branches. The bureau may:

(A) self-insure to cover the activities of the license branches; or

(B) rather than purchase a bond or crime insurance policy for each branch, purchase a single blanket bond or crime insurance policy endorsed to include faithful performance to cover all branches.

(5) If the services of a license branch are used by the bureau in the collection of the excise tax imposed by this chapter, the license branch shall collect the service charge prescribed under IC 9-29 for each vehicle registered on which an excise tax is collected by that branch.

(6) If the excise tax imposed by this chapter is collected by the department of state revenue, the money collected shall be deposited in the state general fund to the credit of the appropriate county and reported to the bureau on the first working day following the week of collection. Except as provided in subdivision (7), money collected by the department that represents interest or a penalty shall be retained by the department and used to pay the department's costs of enforcing this chapter.

(7) This subdivision applies only to interest or a penalty collected by the department of state revenue from a person who:

(A) fails to properly register a recreational vehicle as required by IC 9-18 and pay the tax due under this chapter; and

(B) during any time after the date by which the recreational vehicle was required to be registered under IC 9-18 displays on the recreational vehicle a license plate issued by another state.

The total amount collected by the department of state revenue that represents interest or a penalty, minus a reasonable amount determined by the department to represent its administrative expenses, shall be deposited in the state general fund to the credit of the county in which the person resides. The amount shall be reported to the bureau on the first working day following the week of collection.

The bureau may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. However, if a bank card or credit card vendor charges a vendor transaction charge or discount fee, whether billed to the bureau or charged directly to the bureau's account, the bureau shall collect from a person using the card an official fee that may not exceed the highest transaction charge or discount fee charged to the bureau by bank card or credit card vendors during the most recent collection period. The fee may be collected regardless of retail merchant agreements between the bank card and credit card vendors that may prohibit such a fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

(b) On or before April 1 of each year, the bureau shall provide to the auditor of state the amount of taxes collected under this chapter for each county for the preceding year.

(c) On or before May 10 and November 10 of each year, the auditor of state shall distribute to each county one-half (1/2) of:

(1) the amount of delinquent taxes; and

(2) any interest or penalty described in subsection (a)(7);

that have been credited to the county under subsection (a). There is appropriated from the state general fund the amount necessary to make the distributions required by this subsection. The county

auditor shall apportion and distribute the delinquent tax distributions to the taxing units in the county at the same time and in the same manner as excise taxes are apportioned and distributed under section 22 of this chapter.

(d) The insurance commissioner shall prescribe the form of the bonds or crime insurance policies required by this section.

Sec. 22. (a) The bureau shall establish procedures necessary for the collection and proper accounting of the tax imposed by this chapter. The necessary forms and records are subject to approval by the state board of accounts.

(b) The county treasurer, upon receiving the excise tax collections, shall place the collections into a separate account for settlement at the same time as property taxes are accounted for and settled in June and December of each year, with the right and duty of the county treasurer and county auditor to make advances before the time of final settlement of property taxes in the same manner as provided in IC 5-13-6-3.

(c) The county auditor shall determine the total amount of excise taxes collected under this chapter for each taxing unit in the county. The amount collected shall be apportioned and distributed among the respective funds of each taxing unit in the same manner and at the same time as property taxes are apportioned and distributed.

(d) The determination under subsection (c) shall be made from copies of vehicle registration forms and receipts for excise taxes paid on truck campers furnished by the bureau. Before the determination, the county assessor shall, from copies of registration forms and receipts, verify information pertaining to legal residence of persons owning taxable recreational vehicles and truck campers from the county assessor's records, to the extent the verification can be made. The county assessor shall further identify and verify from the assessor's records the taxing units within which the persons reside.

(e) Verifications under subsection (d) shall be completed not later than thirty (30) days after receipt of vehicle registration forms and receipts by the county assessor. The county assessor shall certify the information to the county auditor for the county auditor's use when the information is checked and completed.

Sec. 23. The county auditor shall, from the copies of vehicle

registration forms and truck camper receipts furnished by the bureau, verify and determine the total amount of excise taxes collected under this chapter for each taxing unit in the county. The bureau shall verify the collections reported by the branches and provide the county auditor adequate and accurate audit information, registration form information, truck camper receipts, records, and materials to support the proper assessment, collection, and refund of excise taxes under this chapter.

Sec. 24. The county auditor shall, not later than August 1 of a year, furnish to the proper officer of each political subdivision an estimate of the money to be distributed to the taxing units under this chapter during the next calendar year. The budget of each political subdivision must show the estimated amounts to be received for each fund for which a property tax is proposed to be levied.

Sec. 25. (a) An owner of a recreational vehicle who knowingly registers the recreational vehicle without paying the tax required by this chapter commits a Class B misdemeanor.

(b) An employee of the bureau or a branch manager or employee of a license branch office who recklessly issues a registration on any recreational vehicle without collecting the tax required to be collected under this chapter with the registration commits a Class B misdemeanor.

Sec. 26. The registration of a recreational vehicle registered without payment of the tax imposed by this chapter is void. The bureau shall take possession of the registration certificate, license plate, and other evidence of registration until the owner pays the delinquent taxes and an additional fee of ten dollars ($10) to compensate the bureau for performing the additional duties.

Sec. 27. In the administration and collection of the taxes imposed by this chapter, the bureau may contract with a collection agency that is authorized to collect and receive property taxes on behalf of the county treasurer. A collection agency with which the bureau contracts may collect on behalf of the bureau the taxes imposed by this chapter and the registration fees and charges as the bureau directs. A collection agency that contracts with the bureau under this section shall comply with the requirements concerning the collection of property taxes on behalf of county treasurers and other requirements, including the posting of a bond,

as may be established by the bureau.

Sec. 28. (a) The tax imposed by this chapter is equal to an average property tax rate of two dollars ($2) on each one hundred dollars ($100) of taxable value.

(b) For purposes of limitations on indebtedness of political or municipal corporations imposed by Article 13, Section 1 of the Constitution of the State of Indiana, recreational vehicles and truck campers subject to the tax under this chapter are considered to be taxable property within each political or municipal corporation where the owner resides.

(c) The assessed valuation of recreational vehicles and truck campers subject to the tax under this chapter shall be determined by multiplying the amount of the tax by one hundred (100) and dividing the result by two dollars ($2).

Sec. 29. In the administration and collection of the tax imposed by this chapter, the bureau may coordinate and consolidate the collection of the taxes imposed on all recreational vehicles and truck campers owned by a taxpayer following procedures the bureau considers reasonable and feasible, including the revocation of all registrations of recreational vehicles registered by the owner if the owner willfully fails and refuses to pay the tax imposed by this chapter. Upon a revocation of registration, the bureau shall notify the department of state revenue of the name and address of the taxpayer.

SECTION 23. IC 6-7-1-17, AS AMENDED BY P.L.218-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of one and two-tenths cents ($0.012) per individual package of cigarettes as compensation for their labor and expense.

(b) The department may permit distributors who hold certificates and who are admitted to do business in Indiana to pay for revenue

stamps within thirty (30) days after the date of purchase. However, the privilege is extended upon the express condition that:

(1) except as provided in subsection (c), a bond or letter of credit satisfactory to the department, in an amount not less than the sales price of the stamps, is filed with the department; ~~and~~

(2) proof of payment is made of all ~~local~~ property **taxes,** ~~state income, and~~ excise taxes, **and listed taxes (as defined in IC 6-8.1-1-1)** for which any such distributor may be liable; **and**

(3) payment for the revenue stamps must be made by electronic funds transfer (as defined in IC 4-8.1-2-7).

The bond or letter of credit, conditioned to secure payment for the stamps, shall be executed by the distributor as principal and by a corporation duly authorized to engage in business as a surety company or financial institution in Indiana.

(c) If a distributor has at least five (5) consecutive years of good credit standing with the state, the distributor shall not be required to post a bond or letter of credit under subsection (b).

SECTION 24. IC 6-8-12-1, AS ADDED BY P.L.234-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "eligible entity" means:

(1) the National Football League and its affiliates; ~~as defined in the National Football League document titled "SUPER BOWL XLV HOST CITY BID SPECIFICATIONS & REQUIREMENTS" dated October 2006.~~ **and**

(2) the National Collegiate Athletic Association and its affiliates.

SECTION 25. IC 6-8-12-2, AS ADDED BY P.L.234-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "eligible event" means:

(1) an event known as the Super Bowl that is conducted **after December 31, 2011,** by an eligible entity described in ~~section 1~~ **section 1(1)** of this chapter; **or**

(2) an event known as the Men's Final Four or the Women's Final Four, including the ancillary events associated with the Men's Final Four or the Women's Final Four, that is conducted after December 31, 2011, by an eligible entity described in section 1(2) of this chapter.

SECTION 26. IC 6-8-12-3, AS ADDED BY P.L.234-2007,

SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a) Except as provided in subsection (b),** all property owned by an eligible entity, revenues of an eligible entity, and expenditures and transactions of an eligible entity:

(1) in connection with an eligible event; and

(2) resulting from holding an eligible event in Indiana or making preparatory advance visits to Indiana in connection with an eligible event;

are exempt from taxation in Indiana for all purposes.

(b) Salaries and wages paid to employees of the National Collegiate Athletic Association and its affiliates that are ordinarily subject to taxation under:

(1) IC 6-3-1 through IC 6-3-7; and

(2) IC 6-3.5;

are subject to income taxation regardless of whether the salaries and wages are paid in connection with an eligible event, holding an eligible event in Indiana, or making a preparatory advance visit to Indiana in connection with an eligible event.

SECTION 27. IC 6-8.1-1-1, AS AMENDED BY P.L.233-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); **the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1);** the hazardous waste disposal tax (IC 6-6-6.6); the

cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 28. IC 6-8.1-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or any of the following:

(1) the due date of the return; or

(2) in the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax, the end of the calendar year which contains the taxable period for which the return is filed.

(b) If a person files an adjusted gross income tax (IC 6-3), supplemental net income tax (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1), county option income tax (IC 6-3.5-6), or financial institutions tax (IC 6-5.5) return that understates the person's income, as that term is defined in the particular income tax law, by at least twenty-five percent (25%), the proposed assessment limitation is six (6) years instead of the three (3) years provided in subsection (a).

(c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5 is considered to have failed to file a return for purposes of this article.

(d) In the case of the commercial vehicle excise tax imposed under IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a commercial vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is considered to have failed to file a return for purposes of this article.

(e) In the case of the excise tax imposed on recreational vehicles and truck campers under IC 6-6-5.1, the tax shall be assessed as provided in IC 6-6-5.1 and must include the penalties and interest due on all listed taxes not paid by the due date. A person who fails to properly register a recreational vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.1 is considered to have failed to file a return for purposes of this article. A person who fails to pay the tax due under IC 6-6-5.1 on a truck camper is considered to have failed to file a return for purposes of this article.

~~(e)~~ **(f)** If a person files a fraudulent, unsigned, or substantially blank return, or if a person does not file a return, there is no time limit within which the department must issue its proposed assessment.

~~(f)~~ **(g)** If, before the end of the time within which the department may make an assessment, the department and the person agree to extend that assessment time period, the period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must contain:

(1) the date to which the extension is made; and

(2) a statement that the person agrees to preserve the person's records until the extension terminates.

The department and a person may agree to more than one (1) extension under this subsection.

~~(g)~~ **(h)** If a taxpayer's federal income tax liability for a taxable year is modified due to the assessment of a federal deficiency or the filing of an amended federal income tax return, then the date by which the department must issue a proposed assessment under section 1 of this chapter for tax imposed under IC 6-3 is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

SECTION 29. IC 6-8.1-7-1, AS AMENDED BY P.L.219-2007, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) This subsection does not apply to the

disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of

employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana, when it is agreed that the information is to be confidential and to be used solely for official purposes.

~~(g)~~ **(h)** The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

~~(h)~~ **(i)** The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

~~(i)~~ **(j)** All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor

vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

~~(j)~~ **(k)** All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

~~(k)~~ **(l)** All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

~~(l)~~ **(n)** This section does not apply to:

(1) the beer excise tax (IC 7.1-4-2);
(2) the liquor excise tax (IC 7.1-4-3);
(3) the wine excise tax (IC 7.1-4-4);
(4) the hard cider excise tax (IC 7.1-4-4.5);
(5) the malt excise tax (IC 7.1-4-5);
(6) the motor vehicle excise tax (IC 6-6-5);
(7) the commercial vehicle excise tax (IC 6-6-5.5); and
(8) the fees under IC 13-23.

~~(m)~~ **(o)** The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

SECTION 30. IC 6-8.1-9-1, AS AMENDED BY P.L.211-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as

provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and shall, if the taxpayer requests, hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels

is equitable. The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under ~~IC 6-8.1-5-2(f),~~ **IC 6-8.1-5-2(g),** the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 31. IC 6-8.1-10-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 3.5. If a person fails to file a return on or before the due date as required by IC 6-3-4-1(1) or IC 6-3-4-1(2), where no remittance is due with the return, the person is subject to a penalty of ten dollars ($10) per day for each day that the return is past due, up to a maximum of five hundred dollars ($500).**

SECTION 32. IC 6-8.1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) If a person fails to file a return or to make a full tax payment with that return with the fraudulent intent of evading the tax, the person is subject to a penalty.

(b) The amount of the penalty imposed for a fraudulent failure described in subsection (a) is one hundred percent (100%) multiplied by:

(1) the full amount of the tax, if the person failed to file a return; or

(2) the amount of the tax that is not paid, if the person failed to pay the full amount of the tax.

(c) In addition to the civil penalty imposed under this section, a person who knowingly fails to file a return with the department or fails to pay the tax due under IC 6-6-5, **IC 6-6-5.1,** or IC 6-6-5.5 commits a Class A misdemeanor.

(d) The penalty imposed under this section is imposed in place of and not in addition to the penalty imposed under section 2.1 of this chapter.

SECTION 33. IC 6-8.1-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) If a person makes a tax payment with a check, **credit card, debit card, or electronic funds transfer,** and the department is unable to obtain payment on the check, **credit card, debit card, or electronic funds transfer** for its full face amount when the check, **credit card, debit card, or electronic funds transfer** is presented for payment through normal banking channels, a penalty of ten percent (10%) of the unpaid tax or the ~~face~~ value of the check, **credit card, debit card, or electronic funds transfer,** whichever is smaller, is imposed.

(b) When a penalty is imposed under subsection (a), the department shall notify the person by mail that the check, **credit card, debit card, or electronic funds transfer** was not honored and that the person has ten (10) days after the date the notice is mailed to pay the tax and the penalty either in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the ten (10) day period, the penalty is increased to one hundred percent (100%) multiplied by the ~~face~~ value of the check, **credit card, debit card, or electronic funds transfer,** or the unpaid tax, whichever is smaller.

(c) If the person subject to the penalty under this section can show that there is reasonable cause for the check, **credit card, debit card, or electronic funds transfer** not being honored, the department may waive the penalty imposed under this section.

SECTION 34. IC 9-13-2-42, AS AMENDED BY P.L.41-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana.

The term includes a person who sells off-road vehicles. A dealer must have an established place of business that meets the minimum standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

(3) A person who is a dealer solely because of activities as a transfer dealer.

~~(4) A person who sells off-road vehicles.~~

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft;

per year.

SECTION 35. IC 9-13-2-150.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 150.5. "Registered importer" has the meaning set forth in IC 9-17-2-0.5.**

SECTION 36. IC 9-14-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. The commissioner shall appoint and fix, subject to the approval of the governor, the salaries of the deputies, subordinate officers, clerks, and other employees necessary to carry out this title, IC 6-6-5, **IC 6-6-5.1,** IC 6-6-5.5, and IC 6-6-11.

SECTION 37. IC 9-17-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "registered importer" means a person that is:**

(1) registered as an importer with the National Highway Traffic Safety Administration;

(2) a licensed dealer currently in good standing with the state; and

(3) a validated member of the United States Department of

Homeland Security's Customs-Trade Partnership Against Terrorism (C-TPAT) administered by the United States Customs and Border Protection.

SECTION 38. IC 9-17-2-1, AS AMENDED BY P.L.219-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) This section does not apply to an off-road vehicle that is at least five (5) model years old.

(b) Within sixty (60) days ~~of~~ **after** becoming an Indiana resident, a person must obtain a certificate of title for all vehicles owned by the person that:

(1) are subject to the motor vehicle excise tax under IC 6-6-5; or

(2) are off-road vehicles;

and that will be operated in Indiana.

(c) Within sixty (60) days after becoming an Indiana resident, a person shall obtain a certificate of title for all commercial vehicles owned by the person that:

(1) are subject to the commercial vehicle excise tax under IC 6-6-5.5;

(2) are not subject to proportional registration under the International Registration Plan; and

(3) will be operated in Indiana.

(d) Within sixty (60) days after becoming an Indiana resident, a person must obtain a certificate of title for all recreational vehicles owned by the person that:

(1) are subject to the excise tax imposed under IC 6-6-5.1; and

(2) will be operated in Indiana.

~~(d)~~ **(e)** A person must produce evidence concerning the date on which the person became an Indiana resident.

SECTION 39. IC 9-17-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The form described under section 2 of this chapter must include the following printed statement:

"I swear or affirm that the information I have entered on this form is correct. I understand that making a false statement on this form may constitute the crime of perjury.".

(b) The person applying for the certificate of title must sign the form directly below the printed statement.

(c) The form described under section 2 of this chapter must

include the statement required by IC 9-17-3-3.2.

SECTION 40. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and

(2) sold not less than one hundred fifty (150) motor vehicles during the preceding year.

(b) This section does not apply to the following:

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(4) A motor vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if:

(A) the registered importer complies with section 12.5(a) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(5) A motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company, if:

(A) the financial institution, lending institution, or insurance company complies with section 12.5(b) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the bureau to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 41. IC 9-17-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in the name of a financial institution, a lending institution, or an insurance company in Canada and imported by a registered importer without requiring an inspection under section 12(c) of this chapter if the registered importer presents the bureau with the following documentation relating to the motor vehicle:**

(1) A copy of the registered importer's validation agreement issued by the United States Customs and Border Protection (CBP).

(2) A copy of the entry summary issued by the United States Customs and Border Protection (CBP Form 7501).

(3) A vehicle history report issued by an independent provider of vehicle history information that includes:

(A) the vehicle's title information;

(B) the vehicle's odometer readings; and

(C) the number of owners of the vehicle.

(b) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company if the financial institution, lending institution, or insurance company presents to the bureau a vehicle history report issued by an independent provider of vehicle history information that includes:

(1) the motor vehicle's title information;

(2) the motor vehicle's odometer readings; and

(3) the number of owners of the motor vehicle.

(c) A:

(1) registered importer; or

(2) financial institution, a lending institution, or an insurance company;

must maintain a copy of all documentation required by this section for at least ten (10) years.

(d) An inspection of a motor vehicle described in subsection (a) or (b) is required under section 12(c) of this chapter if:

(1) the registered importer; or

(2) the financial institution, lending institution, or insurance company;

is unable to provide the bureau with the documentation required by this section.

SECTION 42. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is otherwise transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions ~~(3) and~~ (4) **and (5),** deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) Unless the vehicle is being sold or transferred to a dealer licensed under IC 9-23-2, complete all information concerning the purchase on the certificate of title, including, but not limited to:

(A) the name and address of the purchaser; and

(B) the sale price of the vehicle.

~~(3)~~ **(4)** In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

~~(4)~~ **(5)** Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an encumbrance on the certificate of title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection ~~(a)(3)~~ **(a)(4)** or ~~(a)(4)~~ **(a)(5)** at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation.

(2) Two hundred fifty dollars ($250) for the second violation.

(3) Five hundred dollars ($500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's

inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars ($100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 43. IC 9-17-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. The affidavit required by ~~IC 9-17-3-3(a)(4)~~ **section 3(a)(5) of this chapter** shall be printed in the following form:

STATE OF
INDIANA)
) ss:
COUNTY OF _____)

I affirm under the penalties for perjury that all of the following are true:

(1) That I am a dealer licensed under IC 9-23-1.

(2) That I cannot deliver a valid certificate of title to the retail

purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____. Payoff of lien was made on (date)_____. I expect to deliver a valid and transferable certificate of title not later than (date)_____ from the (State of)_____ to the purchaser.

(3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.

Signed _____, Dealer

By_____

Dated _____, ____

CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

_____

Customer Signature

NOTICE TO THE CUSTOMER

If you do not receive a valid certificate of title within the time specified by this affidavit, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer.

If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the above-described ten (10) day period results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by

law.

SECTION 44. IC 9-17-3-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.2. The form furnished by the bureau under IC 9-17-2-2 must contain the following language immediately below the signature of the seller:**

> **"If this vehicle is sold or transferred to a person other than a dealer licensed in Indiana, the seller or transferor is required to fill in all blanks relating to buyer information, including the sale price. The knowing or intentional failure of the seller or transferor to fill in all buyer information is a Class A misdemeanor or a Class D felony for the second or subsequent offense under IC 9-17-3-7(c)(2).".**

SECTION 45. IC 9-17-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) This section does not apply to section 5 of this chapter.

(b) Except as provided in subsection (c), a person who violates this chapter commits a Class C infraction.

(c) A person who **knowingly or intentionally** violates: ~~section 3~~

(1) section 3(a)(1), 3(a)(2), 3(a)(4), or 3(a)(5) of this chapter commits a Class B misdemeanor; **or**

(2) section 3(a)(3) of this chapter commits:

(A) a Class A misdemeanor for the first violation; or

(B) a Class D felony for the second violation or any subsequent violation.

SECTION 46. IC 9-18-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Within sixty (60) days ~~of~~ **after** becoming an Indiana resident, a person must register all motor vehicles owned by the person that:

(1) are subject to the motor vehicle excise tax under IC 6-6-5; and

(2) will be operated in Indiana.

(b) Within sixty (60) days after becoming an Indiana resident, a person must register all commercial vehicles owned by the person that:

(1) are subject to the commercial vehicle excise tax under IC 6-6-5.5;

(2) are not subject to proportional registration under the International Registration Plan; and

(3) will be operated in Indiana.

(c) Within sixty (60) days after becoming an Indiana resident, a person must register all recreational vehicles owned by the person that:

(1) are subject to the excise tax imposed under IC 6-6-5.1; and

(2) will be operated in Indiana.

~~(c)~~ **(d)** A person must produce evidence concerning the date on which the person became an Indiana resident.

~~(d)~~ **(e)** Except as provided in subsection ~~(e),~~ **(f),** an Indiana resident must register all motor vehicles operated in Indiana.

~~(e)~~ **(f)** An Indiana resident who has a legal residence in a state that is not contiguous to Indiana may operate a motor vehicle in Indiana for not more than sixty (60) days without registering the motor vehicle in Indiana.

~~(f)~~ **(g)** An Indiana resident who has registered a motor vehicle in Indiana in any previous registration year is not required to register the motor vehicle, is not required to pay motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5 on the motor vehicle, and is exempt from property tax on the motor vehicle for any registration year in which:

(1) the Indiana resident is:

(A) an active member of the armed forces of the United States; and

(B) assigned to a duty station outside Indiana; and

(2) the motor vehicle is not operated inside or outside Indiana.

This subsection may not be construed as granting the bureau authority to require the registration of any vehicle that is not operated in Indiana.

~~(g)~~ **(h)** When an Indiana resident registers a motor vehicle in Indiana after the period of exemption described in subsection ~~(f),~~ **(g),** the Indiana resident may submit an affidavit that:

(1) states facts demonstrating that the motor vehicle is a motor vehicle described in subsection ~~(e),~~ **(g);** and

(2) is signed by the owner of the motor vehicle under penalties of perjury;

as sufficient proof that the owner of the motor vehicle is not required to register the motor vehicle during a registration year described in subsection ~~(f).~~ **(g).** The commission or bureau may not require the Indiana resident to pay any civil penalty or any reinstatement or other fee that is not also charged to other motor vehicles being registered in

the same registration year.

SECTION 47. IC 9-22-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, **for any other vehicle.**

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, **for any other vehicle.**

SECTION 48. IC 9-22-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. If a vehicle or a part tagged under section 11 of this chapter is not removed within the ~~seventy-two (72) hour~~ **applicable** period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

SECTION 49. IC 9-23-2-7, AS AMENDED BY P.L.184-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b) through (g), the secretary of state shall issue an offsite sales license to

a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary of state may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not apply to:

(1) new manufactured housing dealers;

(2) recreational vehicle dealers; ~~or~~

(3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates; **or**

(4) off-road vehicle dealers.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary of state may not issue an offsite sales license to a licensed dealer if the dealer does not have authorization that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may only be obtained from the following:

(1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.

(2) If the offsite sale would be located outside the corporate boundaries of a city or town:

(A) except as provided in clause (B), the executive of the county; or

(B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary of state may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the current license application is being submitted.

(h) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 50. IC 9-24-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 4.5. (a) An employer that is a motor carrier (as defined in IC 8-2.1-17-10 or 49 CFR 390.5) engaged in the business of the transportation of property may provide:**

(1) an advance of wages not yet earned or business expenses not yet incurred to the holder of a commercial driver's license issued according to rules adopted pursuant to section 2 of this chapter; and

(2) take as a deduction from subsequent wages earned by the holder of the commercial driver's license the amount of the advance that exceeds the amount that is substantiated with a receipt or other appropriate documentary evidence that complies with the requirements applicable to a reimbursement or other expense allowance arrangements under 26 U.S.C. 62(c).

(b) The amount of the advance, in accordance with this section, deducted from subsequent wages earned by the holder of the commercial driver's license is not considered an invalid assignment of wages if the following conditions are satisfied:

(1) The advance is made at the request of the holder of the commercial driver's license.

(2) The motor carrier employer provided notice to the holder of the commercial driver's license that the amount advanced may be deducted from a subsequent wage statement to the extent that the amount of the advance exceeds the amount substantiated under this section.

SECTION 51. IC 9-29-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. The service charge for each excise tax collection made under IC 6-6-5, **IC 6-6-5.1,** or IC 6-6-5.5 is eighty-five cents ($0.85).

SECTION 52. IC 20-49-8.2-1, AS ADDED BY P.L.211-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "eligible school corporation" refers to a school corporation located in a county that has been reassessed under IC 6-1.1-4-32 **(before its repeal).**

SECTION 53. IC 36-7-11.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) "Economic development facilities" includes land; interests in land; site improvements; infrastructure improvements; buildings; structures; rehabilitation, renovation, and enlargement of buildings and structures; **economic improvement projects under IC 36-7-22;** machinery; equipment; and furnishings for the following:

(1) Facilities for manufacturing, warehousing, distribution, or processing of tangible or intangible property.

(2) Facilities for commercial, business, health care, or recreational activities (whether for profit or not-for-profit), except for any of the following:

(A) Private or commercial golf course.

(B) Country club.

(C) Massage parlor.

(D) Tennis club.

(E) Skating facility (including roller skating, skateboarding, or ice skating).

(F) Racquet sports facility (including any handball or racquetball court).

(G) Hot tub facility.

(H) Suntan facility.

(I) Racetrack.

(J) Airplane.

(K) Skybox or other private luxury box.

(L) Health club.

(M) Any facility primarily used for gambling.

(N) Any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

SECTION 54. IC 36-7-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "economic improvement project" means the following:

(1) Planning or managing development or improvement activities.

(2) Designing, landscaping, beautifying, constructing, or maintaining public areas, **public improvements,** or public ways (including designing, constructing, or maintaining lighting, **infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks** for a public area or public way).

(3) Promoting commercial activity or public events.

(4) Supporting business recruitment and development.

(5) Providing security for public areas.

(6) Acquiring, constructing, or maintaining parking facilities.

(7) Constructing, rehabilitating, or repairing residential property, **including improvements related to the habitability of the residential property.**

SECTION 55. IC 36-7-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed assessment;

(2) state that the proposed assessment on each parcel of real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the assessment may be filed;

(4) set forth the time and place where the board will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed

as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the assessments exceeds the amount needed, the board shall make a prorated reduction in each assessment.

(f) Except as provided in section 13 of this chapter, the signing of the assessment schedule by a majority of the members of the board, and the delivery of the schedule to the county auditor constitutes a final and conclusive determination of the benefits that are assessed.

(g) Each **economic improvement district** assessment is:

(1) included within the definition of property taxation under IC 6-1.1-1-14; and

(2) a lien on the real property that is assessed ~~second only to taxes levied on that property.~~ **in the economic improvement district.**

The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.

(h) An economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section 164 of the Internal Revenue Code to the determination of adjusted gross income. However, an economic improvement district assessment paid by a property tax owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.

~~(h)~~ **(i)** The board shall certify to the county auditor the schedule of assessments of benefits.

SECTION 56. IC 36-7-22-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22. The board may:**

(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or

(2) issue revenue bonds;

to finance an economic improvement project.

SECTION 57. IC 9-23-0.5-1 IS REPEALED [EFFECTIVE JULY

1, 2008].

SECTION 58. [EFFECTIVE JANUARY 1, 2009] **(a) The definitions in IC 6-6-5.1, as added by this act, apply throughout this SECTION.**

(b) IC 6-6-5.1, as added by this act, applies to recreational vehicles registered and truck campers located in Indiana after December 31, 2009.

(c) After December 31, 2008, a recreational vehicle or truck camper, except for a recreational vehicle or truck camper held in the inventory of recreational vehicles and truck campers held for sale by a manufacturer, distributor, or dealer in the course of business, may not be assessed as personal property for the purpose of the assessment and levy of personal property taxes.

(d) This SECTION expires January 1, 2011.

SECTION 59. [EFFECTIVE JANUARY 1, 2009] **(a) The definitions in IC 6-6-5.1, as added by this act, apply throughout this SECTION.**

(b) The bureau shall certify to the department of local government finance the amount of excise tax collected under IC 6-6-5.1, as added by this act, and distributed to each county auditor in calendar year 2010.

(c) Each county auditor shall certify to the department of local government finance the amount of excise tax collected under IC 6-6-5.1, as added by this act, and distributed to each taxing unit in the county in calendar year 2010.

(d) This SECTION expires January 1, 2012.

SECTION 60. [EFFECTIVE JANUARY 1, 2009] **(a) For property taxes due and payable in calendar year 2010, the department of local government finance shall make a reduction in the maximum permissible ad valorem property tax levy for each taxing unit to account for the removal of assessed value under IC 6-6-5.1, as added by this act.**

(b) This SECTION expires January 1, 2012.

SECTION 61. [EFFECTIVE JANUARY 1, 2009] **(a) The definitions in IC 6-1.1-1 and IC 6-6-5.1, as added by this act, apply throughout this SECTION. As used in this SECTION, "nonbusiness personal property" means personal property that is not:**

(1) held for sale in the ordinary course of a trade or business;

(2) held, used, or consumed in connection with the production of income; or

(3) held as an investment.

(b) The purpose of the amendment of IC 6-1.1-1-11 and the addition of IC 6-6-5.1 by this act is to exempt nonbusiness personal property (other than mobile homes) from property taxation to the fullest extent allowed under Article 10, Section 1 of the Constitution of the State of Indiana. The general assembly finds that nonbusiness personal property consisting of:

(1) self-propelled vehicles that are not designed or regularly used for transporting property or persons on a public highway, such as invalid chairs, snowmobiles, yard and garden tractors, and all terrain vehicles;

(2) trailers not subject to an excise tax under IC 6-6-5, IC 6-6-5.1, as added by this act, or IC 6-6-5.5;

(3) human powered boats not subject to an excise tax under IC 6-6-11; or

(4) similar property;

is not the type of property that must be subject to an excise tax in order to be exempted from property taxation. However, if a property tax exemption granted by this act is determined to be invalid, all remaining exemptions granted by this act that are not determined to be invalid shall be treated as severable under IC 1-1-1-8.

(c) After February 28, 2009:

(1) nonbusiness personal property may not be assessed as personal property under IC 6-1.1 for property tax purposes;

(2) a lien for property taxes first due and payable after December 31, 2009, does not attach to nonbusiness personal property; and

(3) the department of local government finance, a county auditor, or an assessing official may not require an individual or entity to file a personal property tax return for nonbusiness personal property.

(d) For property taxes due and payable in calendar year 2010, the department of local government finance shall make a reduction in the maximum permissible ad valorem property tax levy for each taxing unit to account for the removal of assessed value under IC 6-1.1-2-7(7), as amended by this act. However, a taxing unit may

apply for an excessive levy under IC 6-1.1-18.5 to mitigate the effects of the removal of assessed value under IC 6-1.1-2-7(7), as amended by this act, and the reduction of the unit's maximum levy required by this subsection.

(e) For property taxes due and payable in calendar year 2011, the department of local government finance shall make a reduction in the maximum permissible ad valorem property tax levy for each taxing unit to account for the removal of assessed value under IC 6-1.1-2-7(7), as amended by this act.

(f) County auditors and assessing officials shall provide the bureau of motor vehicles and the department of state revenue with the information from personal property tax returns and related records needed by the bureau of motor vehicles and the department of state revenue to implement IC 6-6-5.1, as added by this act, in 2009 on the schedule, in the manner, and in the form required by the department of local government finance.

(g) Notwithstanding this act, the definition of personal property in IC 6-1.1-1-11, as effective before January 1, 2009, applies for purposes of applying IC 6-1.1-23-2 and other provisions related to the collection of delinquent property taxes for levies that became a lien on property before January 1, 2009.

(h) This SECTION expires January 1, 2013.

SECTION 62. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-3-1-11, as amended by this act, applies only to taxable years beginning after December 31, 2007.**

SECTION 63. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-3-1-3.5, as amended by this act, applies to taxable years beginning after December 31, 2007.**

SECTION 64. [EFFECTIVE UPON PASSAGE] **The trustees of the following institution may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following project if the sum of principal costs of any bond issued under this SECTION, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:**

Indiana University, Purdue University at Fort Wayne

Student Services and Library Complex $16,000,000

Bonds issued under this SECTION are not eligible for fee

replacement appropriations. The bonding authority granted by this SECTION is in addition to any bonding authority granted to the trustees of the institution for a student services and library complex by P.L.234-2007, SECTION 179(a).

SECTION 65. P.L.234-2007, SECTION 173, AS AMENDED BY HEA 1290-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 173. (a) As used in this SECTION, "commission" refers to the commission on disproportionality in youth services.

(b) As used in this SECTION, "youth services" means the following:

(1) Juvenile justice services.

(2) Child welfare services.

(3) Education services.

(4) Mental health services.

(c) The commission on disproportionality in youth services is established to develop and provide an implementation plan to evaluate and address disproportionate representation of youth of color in the use of youth services.

(d) The commission consists of the following members appointed not later than August 15, 2007:

(1) The dean or a faculty member of an Indiana accredited graduate school of public administration, social work, education, mental health, or juvenile justice, who shall serve as chairperson of the commission.

(2) The state superintendent of public instruction, or the superintendent's designee.

(3) The director of the division of mental health and addiction, or the director's designee.

(4) The executive director of the Indiana criminal justice institute, or the executive director's designee.

(5) The director of the department of child services, or the director's designee.

(6) The commissioner of the department of correction, or the commissioner's designee.

(7) A division of child services county director from a densely populated county.

(8) A faculty member of an Indiana accredited college or university that offers undergraduate degrees in public

administration, social work, education, mental health, or juvenile justice.
(9) A prosecuting attorney.
(10) A juvenile court judge.
(11) An attorney who specializes in juvenile law.
(12) A representative of the Indiana Minority Health Coalition.
(13) A health care provider who specializes in pediatric or emergency medicine.
(14) A public agency family case manager.
(15) A private agency children's service social worker.
(16) A school counselor or social worker.
(17) A representative of law enforcement.
(18) A guardian ad litem, court appointed special advocate, or other child advocate.
(19) The chairperson of an established advocacy group in Indiana that has previously investigated the issue of disproportionality in use of youth services.
(20) A young adult who has previous involvement with at least one (1) youth service.
(21) A representative of foster parents or adoptive parents.
(22) A representative of a state teacher's association or a public school teacher.
(23) A child psychiatrist or child psychologist.
(24) A representative of a family support group.
(25) A representative of the National Alliance on Mental Illness.
(26) A representative of the commission on the social status of black males.
(27) A representative of the Indiana Juvenile Detention Association.
(28) A representative of the commission on Hispanic/Latino affairs.
(29) A representative of the civil rights commission.
(30) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.
(31) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this

subdivision may not be members of the same political party and serve as nonvoting members.

The governor shall appoint the members under subdivisions (1), (7), (10), (13), (16), (19), (22), (25), (28), and (29). The speaker of the house of representatives shall appoint the members under subdivisions (8), (11), (14), (17), (20), (23), (26), and (30). The president pro tempore of the senate shall appoint the members under subdivisions (9), (12), (15), (18), (21), (24), (27), and (31). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(e) Each member of the commission shall have an interest in or influence on evaluating and addressing disproportionate representation of youth of color in the use of youth services.

(f) A majority of the voting members of the commission constitutes a quorum.

(g) The Indiana accredited graduate school represented by the chairperson of the commission under subsection (d)(1) shall staff the commission.

(h) The commission shall meet at the call of the chairperson and shall meet as often as necessary to carry out the purposes of this SECTION.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel

allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(l) The commission's responsibilities include the following:

(1) Reviewing Indiana's public and private child welfare, juvenile justice, mental health, and education service delivery systems to evaluate disproportionality rates in the use of youth services by youth of color.

(2) Reviewing federal, state, and local funds appropriated to address disproportionality in the use of youth services by youth of color.

(3) Reviewing current best practice standards addressing disproportionality in the use of youth services by youth of color.

(4) Examining the qualifications and training of youth service providers and making recommendations for a training curriculum and other necessary changes.

(5) Recommending methods to improve use of available public and private funds to address disproportionality in the use of youth services by youth of color.

(6) Providing information concerning identified unmet youth service needs and providing recommendations concerning the development of resources to meet the identified needs.

(7) Suggesting policy, program, and legislative changes related to youth services to accomplish the following:

(A) Enhancement of the quality of youth services.

(B) Identification of potential resources to promote change to enhance youth services.

(C) Reduction of the disproportionality in the use of youth services by youth of color.

(8) Preparing a report consisting of the commission's findings and recommendations, and the presentation of an implementation plan to address disproportionate representation of youth of color in use of youth services.

(m) In carrying out the commission's responsibilities, the commission shall consider pertinent studies concerning disproportionality in use of youth services by youth of color.

(n) The affirmative votes of a majority of the commission's voting members are required for the commission to take action on any measure, including recommendations included in the report required

under subsection (l)(8).

(o) The commission shall submit the report required under subsection (l)(8) to the governor and to the legislative council not later than ~~November~~ **October** 15, 2008. The report to the legislative council must be in an electronic format under IC 5-14-6. The commission shall make the report available to the public upon request not later than December ~~15,~~ **1,** 2008.

(p) There is appropriated from the state general fund one hundred twenty-five thousand ($125,000) dollars for the period beginning July 1, 2007, and ending December 31, 2008, to carry out the purposes of this SECTION, including the hiring by the chairperson of an individual to serve only to assist the chairperson and members with research, statistical analysis, meeting support, and drafting of the report required under subsection (l)(8).

(q) This SECTION expires January 1, 2009.

SECTION 66. P.L.196-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]: SECTION 7. (a) The definitions in IC 6-1.1-1 apply to this SECTION.

(b) This SECTION applies only to an entity that meets all of the following conditions:

(1) The entity is:

(A) a nonprofit:

(i) corporation; **or**

(ii) limited liability company;

that is organized for educational, literary, scientific, religious, or charitable purposes; or

(B) a local chapter of a nonprofit ~~corporation~~ **entity** referred to in clause (A).

(2) For the assessment date in a calendar year after 2000:

(A) tangible property owned by the entity was, except for the entity's failure to timely file an application under IC 6-1.1-11 for property tax exemption, otherwise eligible for an exemption;

(B) the entity failed to timely file an application under IC 6-1.1-11 for property tax exemption for the tangible property for the assessment date; and

(C) the entity's tangible property was subject to taxation for the

assessment date.

(3) The tangible property, or other property owned by the entity in the same county, was exempt from taxation in either:

(A) the calendar year before the year containing the assessment date described in subdivision (2); or

(B) the calendar year two (2) years before the year containing the assessment date described in subdivision (2).

(c) Notwithstanding any provision of IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for a particular assessment date, an entity described in subsection (b) may before January 1, 2008, file with the county assessor an application for property tax exemption for an assessment date described in subsection (b)(2).

(d) Notwithstanding any provision of IC 6-1.1-11 or any other law, an application for property tax exemption filed under subsection (c) is considered to be timely filed, and the county property tax assessment board of appeals shall grant an exemption claimed for the assessment date on the application upon the county property tax assessment board of appeals's determination that:

(1) the entity's application for property tax exemption satisfies all other applicable requirements; and

(2) the entity's tangible property was, except for the failure to timely file an application for property tax exemption, otherwise eligible for the claimed exemption.

(e) If an entity has previously paid the tax liability for tangible property for an assessment date and the property is granted an exemption under this SECTION for that assessment date, the county auditor shall issue a refund of the property tax paid by the entity. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(f) This SECTION expires January 1, 2009.

SECTION 67. [EFFECTIVE UPON PASSAGE] **The general assembly finds that there is sufficient money available to expend the amount appropriated by P.L.234-2007 for area health education centers for the state fiscal year beginning July 1, 2007,**

and ending June 30, 2008. Notwithstanding any other law, the budget agency shall allot and otherwise take the steps necessary to make available for expenditure and distribute to area health education centers before May 2, 2008, at least seventy-five percent (75%) of the amount appropriated by P.L.234-2007 for area health education centers for the state fiscal year beginning July 1, 2007, and ending June 30, 2008. The budget agency shall allot and otherwise take the steps necessary to make available for expenditure and distribute to area health education centers before July 1, 2008, at least an additional twenty percent (20%) of the amount appropriated by P.L.234-2007 for area health education centers for the state fiscal year beginning July 1, 2007, and ending June 30, 2008. The remaining five percent (5%) of the appropriation may be held as a reserve or allotted and released for expenditure and distribution to area health education centers, as determined by the budget agency using the standard allotment procedures applicable to state expenditures. The provisions of law permitting appropriations to be transferred, assigned, or reassigned to another use, fund, or agency do not apply to the appropriation described in this SECTION. Except as provided by this SECTION relative to five percent (5%) of the appropriation, the provisions of law permitting the budget agency to withhold an allotment of an appropriation does not apply to the appropriation described in this SECTION.

SECTION 68. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) The definitions in IC 6-1.1-1 apply throughout subsection (b).**

(b) A civil taxing unit may appeal for an excessive ad valorem property tax levy for property taxes first due and payable in 2008 under IC 6-1.1-18.5-12 and IC 6-1.1-18.5-16 on the grounds stated in IC 6-1.1-18.5-16(a), except that:

(1) the deadline of December 31, 2007, under IC 6-1.1-18.5-12(a) does not apply to the appeal; and

(2) the deadline for the appeal is May 1, 2008.

(c) The definitions in IC 20-18-2 apply throughout subsection (d).

(d) A school corporation may appeal for an excessive ad valorem property tax levy for property taxes first due and payable in 2008 under IC 6-1.1-19, IC 20-45-4-4, and IC 20-45-6-5 on the

grounds stated in IC 20-45-6-5(a)(2)(A), except that:

(1) the deadline of December 31, 2007, under IC 20-45-4-4 does not apply to the appeal; and

(2) the deadline for the appeal is May 1, 2008.

(e) If an appeal under this SECTION is approved:

(1) the deadline of February 15, 2008, under IC 6-1.1-17-16(h) does not apply to the actions of the department of local government finance under IC 6-1.1-17-16 for property taxes first due and payable in 2008 with respect to the following:

(A) The county in which the following are located:

(i) One (1) or more civil taxing units for which the appeal is approved.

(ii) One (1) or more school corporations for which the appeal is approved.

(B) The civil taxing units and school corporations located wholly or partially in the county referred to in clause (A);

(2) the deadlines under IC 6-1.1-22 do not apply in the county referred to in subdivision (1)(A) to the mailing or transmitting of statements and information and the payment of property taxes; and

(3) subject to subsection (f), the county treasurer shall set a schedule for the mailing or transmitting of statements and information and the payment of property taxes.

(f) Subsection (e) does not affect the authority of the county treasurer to use provisional statements under IC 6-1.1-22.5 if that chapter applies.

(g) This SECTION expires January 1, 2009.

SECTION 69. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "eligible district" refers to the Honey Creek fire protection district located in Vigo County.**

(b) To account for the change in the definition of "assessed value" reflected in IC 6-1.1-1-3(a)(1) and IC 6-1.1-1-3(a)(2), the taxable assessed value to be used for purposes of subsection (a)(2)(B) is the product of:

(1) the actual taxable assessed value; multiplied by

(2) three (3).

(c) An eligible district may, before September 20, 2008, appeal to the department of local government finance for relief from the levy limitations imposed by IC 6-1.1-18.5 for property taxes first

due and payable in 2009. In the appeal, the district must:

(1) state that the district will be unable to carry out the governmental functions committed to the district by law unless the appeal is approved; and

(2) present evidence that the district is an eligible district.

(d) The maximum increase in an eligible district's levy allowed under this SECTION is two hundred twelve thousand five hundred dollars ($212,500).

(e) The department of local government finance shall process an appeal under subsection (c) in the same manner that the department processes appeals under IC 6-1.1-18.5-12.

(f) For purposes of computing an eligible district's ad valorem property tax levy for taxes first due and payable in 2010, the district's maximum permissible ad valorem property tax levy for property taxes first due and payable in 2009 under STEP ONE of IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b) includes the amount of any increase in the district's levy approved under this SECTION for property taxes first due and payable in 2009.

(g) This SECTION expires January 1, 2011.

SECTION 70. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to salaries paid for pay periods beginning after June 30, 2008.**

(b) As used in this SECTION, "district forester" means any position on the state staffing table with a job code of "001LE2" and a description of "Forester Specialist 2".

(c) As used in this SECTION, "natural sciences manager" means any position on the state staffing table with a job code of "00ENS7" and a description of "Natural Sciences Manager E7".

(d) As used in this SECTION, "state staffing table" means a position classification plans and salary and wage schedule adopted by the state personnel department (established by IC 4-15-1.8-2) under IC 4-15-1.8-7.

(e) For pay periods beginning after June 30, 2008, the state personnel department shall equalize the salary and wage schedules for the positions of district forester and natural sciences manager so that both positions share the higher of the two (2) wage and salary schedules for these positions existing on April 1, 2008. For pay periods beginning after June 30, 2008, the department of natural resources (created by IC 14-9-1-1) shall increase the wages

and salaries of all district foresters and natural sciences managers to bring the wages and salaries into conformity with the salary and wage schedules required by this SECTION.

SECTION 71. P.L.234-2007, SECTION 179, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007 (RETROACTIVE)]: SECTION 179. (a) The trustees of the following institutions may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following projects if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:

Indiana University South Bend - Arts Building Renovation	$27,000,000
Indiana University Bloomington - Cyber Infrastructure Building	18,300,000
Indiana University, Purdue University at Indianapolis - Neurosciences Research Building	20,000,000
Indiana University Southeast Medical Education Center A & E	1,000,000
Indiana State University - Life Sciences/Chemistry Laboratory Renovations **and Satellite Chiller Capacity**	14,800,000
Ball State University - Central Campus Academic Project, Phase I & Utilities	33,000,000
Ivy Tech-Fort Wayne Technology Center and Demolition Costs	26,700,000
Ivy Tech - Indianapolis Community College for the Fall Creek Expansion Project	69,370,000
Ivy Tech - Lamkin Center for Instructional Development and Leadership	1,000,000
Ivy Tech - Logansport	16,000,000
Ivy Tech - Sellersburg	20,000,000
Ivy Tech - Warsaw A & E	1,000,000
Ivy Tech - Muncie\Anderson A & E	4,800,000
Ivy Tech - Elkhart Phase I	16,000,000
Ivy Tech - Greencastle	8,000,000
Purdue University Calumet - Gyt Building A & E	2,400,000

Purdue University North Central - Student Services & Recreation Center A & E	1,000,000
University of Southern Indiana College of Business - General Classroom Building	29,900,000
Vincennes University - Health and Science Lab Rehabilitation	2,000,000
Indiana University, Purdue University at Fort Wayne Student Services and Library Complex	24,000,000

(b) The trustees of the following institution may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:

Purdue University West Lafayette - Mechanical Engineering Addition	$33,000,000

The foregoing project is not eligible for fee replacement appropriations.

(c) The trustees of the following institution may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:

Purdue University West Lafayette - Boiler No. 6	$53,000,000

The institution shall invite bids as provided under IC 21-37-3-3. The bids shall be open to inspection by the public.

SECTION 72. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **(a) This SECTION applies only to an entity that meets all of the following conditions:**

(1) The entity is a church or religious society.

(2) For the assessment dates in 2003, 2004, and 2005:

(A) property owned by the entity would have been eligible for exemption from property taxes if the entity had timely filed an application under IC 6-1.1-11 for property tax exemption for the property;

(B) the entity failed to file a timely application under IC 6-1.1-11 for property tax exemption for the property; and

(C) the entity's property was subject to taxation.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for a particular assessment date, an entity described in subsection (a) may before July 1, 2008, file with the county assessor an application for property tax exemption for the 2003, 2004, and 2005 assessment dates.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for property tax exemption filed under subsection (b) is considered to be timely filed, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the assessment dates in 2003, 2004, and 2005 for property tax exemption if the board determines that:

(1) the entity's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the entity's property was, except for the failure to timely file an application for property tax exemption, otherwise eligible for the claimed exemption.

(d) If an entity has previously paid the tax liability for property with respect to the 2003, 2004, or 2005 assessment date and the property is granted an exemption under this SECTION for one (1) or more of those assessment dates, the county auditor shall issue a refund of the property tax paid by the entity. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(e) This SECTION expires January 1, 2010.

SECTION 73. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 9-13-2-42, as amended by this act, a person who engages in the business of selling at least twelve (12) off-road vehicles to the general public each year for delivery in Indiana whose business name begins with the letters A through L, inclusive, is not required to apply for a dealer's license under IC 9-23-2 with the bureau of**

motor vehicles until the month in 2009 required by IC 9-23-2-8.

(b) This SECTION expires December 31, 2009.

SECTION 74. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "qualified town" means a town that would otherwise be eligible to designate a municipal riverfront development project area if the town were a city.**

(b) Notwithstanding any other law, the legislative body of a qualified town may adopt an ordinance to designate a municipal riverfront development project area within the territorial boundaries of the town. Notwithstanding any other law, all provisions of IC 7.1 that apply to a municipal riverfront development project area apply to an area designated under this SECTION as if the designating qualified town were a city.

(c) This SECTION expires December 31, 2011.

SECTION 75. [EFFECTIVE JANUARY 1, 2008] **(a) This SECTION applies to a taxpayer notwithstanding the following:**

(1) IC 6-1.1-3-7.5.

(2) IC 6-1.1-10-31.1.

(3) IC 6-1.1-11.

(4) 50 IAC 4.2-2.

(5) 50 IAC 4.2-3.

(6) 50 IAC 4.2-11.

(7) 50 IAC 4.2-12.

(8) 50 IAC 4.2-15-11.

(9) 50 IAC 16.

(b) This SECTION applies:

(1) to an assessment date occurring after December 31, 2003, and before January 1, 2007; and

(2) for property taxes first due and payable after December 31, 2004, and before January 1, 2008.

(c) As used in this SECTION, "taxpayer" refers to a taxpayer who:

(1) filed an original personal property tax return under IC 6-1.1-3-7 for an assessment date described in subsection (b); and

(2) submits for filing, after December 31, 2007, and before March 1, 2008, an amended personal property tax return and a Form 103-W for an assessment date described in subsection (b).

(d) An amended personal property tax return submitted for filing by a taxpayer in person or in any other manner consistent with IC 6-1.1-36-1.5 for an assessment date described in subsection (b):

(1) must be allowed; and

(2) is considered to have been timely filed.

(e) A taxpayer is entitled to the exemptions for tangible personal property claimed on:

(1) Schedule B of the amended returns; and

(2) each Form 103-W filed with the amended returns;

filed under this SECTION.

(f) A notice of increased assessed value issued by a township assessor with respect to tangible personal property that is subject to an amended return filed under this SECTION is considered withdrawn and nullified.

(g) IC 6-1.1-37-7, IC 6-1.1-37-9, and IC 6-1.1-37-10 do not apply to any additional personal property taxes owed by a taxpayer as the result of filing an amended return under this SECTION.

(h) A taxpayer is not entitled to a refund with respect to an amended return filed by a taxpayer under this SECTION.

(i) This SECTION expires July 1, 2009.

SECTION 76. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **In enacting IC 6-1.1-3-23, the general assembly finds the following:**

(1) The economy of northern Indiana has historically been heavily dependent upon:

(A) the domestic steel industry, particularly the integrated steel mill business, which produces steel from basic raw materials through blast furnace and related operations; and

(B) the oil refining and petrochemical industry.

(2) Northern Indiana is the only area of Indiana with integrated steelmaking facilities.

(3) During the last thirty (30) years the domestic steel industry has experienced significant financial difficulties. More than one-half (1/2) of the integrated steel mills in the United States were shut down or deintegrated, with the remainder requiring significant investment and the addition of new processes to make the facilities economically competitive with newer

foreign and domestic steelmaking facilities and processes.

(4) The United States needs to protect the capacity of the oil refining and petrochemical industry. No oil refineries have been built in the United States since 1976.

(5) Given the economic conditions affecting older integrated steelmaking facilities, integrated steel mills claimed abnormal obsolescence in reporting the assessed value of equipment located at the integrated steelmaking facilities that began operations before 1970, thereby reporting the equipment's assessed value at far below thirty percent (30%) of the equipment's total cost (far below the "thirty percent (30%) floor" value generally applicable to equipment exhibiting only normal obsolescence under the current department of local government finance rules).

(6) Current law existing before the effective date of this SECTION obligates the taxpayers making abnormal obsolescence claims to pay personal property taxes based only on, and permits communities to determine property tax budgets and rates based only on, the reported personal property assessed values until the personal property appeals are resolved. Consequently, as a result of abnormal obsolescence claims, the property tax base of communities in northern Indiana is severely reduced for an indeterminate period (if not permanently). The prospect of future appeals and their attendant problems on an ongoing basis must be addressed.

(7) A new, optional method for valuing the equipment of integrated steel mills and entities that are at least fifty percent (50%) owned by an affiliate of an integrated steel mill ("related entities") and the oil refining and petrochemical industry in northern Indiana is needed. That optional method:

(A) recognizes the loss of value and difficulty in valuing equipment at integrated steelmaking facilities and facilities of the oil refining and petrochemical industry that commenced operations decades ago and at the facilities of related entities;

(B) recognizes that depreciable personal property used in integrated steelmaking and in oil refinery or petrochemical operations and by related entities is affected by different

economic and market forces than depreciable personal property used in other industries and certain other segments of the steel industry and therefore experiences different amounts of obsolescence and depreciation; and

(C) can be used to simply and efficiently arrive at a value commensurate with that property's age, use, obsolescence, and market circumstances instead of the current method and its potentially contentious and lengthy appeals. Such an optional method would benefit the communities where these older facilities are located.

(8) Such an optional method would be to authorize a fifth pool in the depreciation schedule for valuing the equipment of integrated steel mills, related entities, and the oil refining and petrochemical industry that reflects all adjustments to the value of that equipment for depreciation and obsolescence, including abnormal obsolescence, which precludes any taxpayer electing such a method from taking any other obsolescence adjustment for the equipment, and which applies only at the election of the taxpayer.

(9) The purpose for authorizing the Pool 5 method is to provide a more simplified and efficient method for valuing the equipment of integrated steel mills and the oil refining and petrochemical industry that recognizes the loss of value and unusual problems associated with the valuation of the equipment or facilities that began operations before 1970 in those industries in northern Indiana, as well as for valuing the equipment of related entities, to stabilize local property tax revenue by eliminating the need for abnormal obsolescence claims, and to encourage those industries to continue to invest in northern Indiana, thereby contributing to the economic life and well-being of communities in northern Indiana, the residents of northern Indiana, and the state of Indiana generally.

(10) The specific circumstances described in this section do not exist throughout the rest of Indiana.

SECTION 77. [EFFECTIVE JANUARY 1, 2009] **IC 6-3-4-4.1 and IC 6-3-4-8, both as amended by this act, apply only to taxable years beginning after December 31, 2008.**

SECTION 78. [EFFECTIVE JANUARY 1, 2009] **IC 6-2.5-6-1, as**

amended by this act, applies to reporting periods beginning after December 31, 2008.

SECTION 79. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-3-3-12, as amended by this act, applies to taxable years beginning after December 31, 2007.**

SECTION 80. [EFFECTIVE JANUARY 1, 2009] **IC 6-3-4-1.5, as amended by this act, applies to adjusted gross income tax returns filed after December 31, 2008.**

SECTION 81. [EFFECTIVE JANUARY 1, 2009] **(a) IC 6-3.1-21-6, as amended by this act, applies to taxable years beginning after December 31, 2008.**

(b) IC 6-8.1-10-3.5, as added by this act, applies to taxable years beginning after December 31, 2008.

SECTION 82. [EFFECTIVE UPON PASSAGE] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall study the feasibility of establishing a sales tax increment financing district in Warrick County to facilitate the establishment of a museum and education complex.**

(b) Before November 1, 2008, the commission on state tax and financing policy shall report findings and make recommendations concerning the study topic described in subsection (a) in a final report to the legislative council in an electronic format under IC 5-14-6.

SECTION 83. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only in a county that contains a consolidated city.**

(b) For a taxpayer's property taxes first due and payable in 2007, the county auditor or county treasurer may mail in the same envelope the following:

(1) A refund to the taxpayer authorized by P.L.234-2007, SECTION 300, and P.L.1-2008, SECTION 5.

(2) A reconciling statement for the taxpayer authorized under IC 6-1.1-22.5 or any other law.

(c) This SECTION expires January 1, 2010.

SECTION 84. **An emergency is declared for this act.**

P.L.132-2008
[H.1159. Approved March 24, 2008.]

AN ACT concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 8-1-19.5 apply throughout this SECTION.**

(b) As used in this SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.

(c) As used in this SECTION, "information and referral services" includes the following:

(1) Toll free information and referral telephone lines.

(2) Human services data bases.

(3) Human services resource directories.

(d) Not later than November 1, 2008, the committee shall study the following:

(1) The availability and scope of human service information and referral services in Indiana.

(2) Methods to:

(A) enhance the use and delivery of; and

(B) ensure the adequate funding of;

information and referral services in Indiana, including statewide 211 services.

(3) Methods to promote increased collaboration between and among:

(A) human services providers; and

(B) information and referral service providers;

in Indiana.

(e) In conducting the study required under subsection (d), the committee may consult with:

(1) the Indiana utility regulatory commission created by IC 8-1-1-2;

(2) any state agency or department that provides human

services;

(3) any nonprofit organization that provides human services;

(4) a recognized 211 service provider; or

(5) any other person that the committee determines will assist the committee in studying the issues set forth in subsection (d).

(f) The committee shall prepare a report on the committee's recommendations, if any, concerning the issues set forth in subsection (d) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2008.

(g) This SECTION expires January 1, 2009.

SECTION 2. **An emergency is declared for this act.**

P.L.133-2008

[H.1165. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-20-1-4, AS AMENDED BY P.L.99-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(2) to make or participate in the making of mortgage loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans,

appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
(18) to sue and be sued in its own name, plead and be impleaded;
(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;
(20) to adopt an official seal and alter the same at pleasure;
(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;
(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;
(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;
(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;
(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;
(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals **and families, including individuals or families facing or experiencing homelessness;**

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall structure and administer any program

conducted under subsection (a)(3) or (a)(4) in order to assure that no mortgage loan shall knowingly be made to a person whose adjusted family income shall exceed one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.

(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:

(1) each mortgage loan is made as a first mortgage loan for real property:

(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;

(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);

(C) to be used as the purchaser's principal residence; and

(D) for which the purchaser has made a down payment in an amount determined by the authority;

(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);

(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and

(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.

(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:

(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under subsection (c);

and

(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:

(A) been a full-time state employee, teacher, judge, police officer, or firefighter;

(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;

(C) been receiving retirement benefits from the retirement plan; or

(D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.

(e) The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

(f) The authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

(g) The authority shall:

(1) oversee and encourage a regional homeless delivery system that:

(A) considers the need for housing and support services;

(B) implements strategies to respond to gaps in the delivery system; and

(C) ensures individuals and families are matched with optimal housing solutions;

(2) facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and

(3) each year, estimate and reasonably determine the number of the following:

(A) Individuals in Indiana who are homeless.

(B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.

(C) Individuals in Indiana who are homeless and not residents of Indiana.

SECTION 2. IC 20-26-11-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. (a) This section applies to a student who resided in a school corporation where the student had legal settlement for at least two (2) consecutive school years immediately before moving to an adjacent school corporation.**

(b) A school corporation in which a student had legal settlement for at least two (2) consecutive years as described in subsection (a):

(1) shall allow the student to attend an appropriate school within the school corporation in which the student formerly resided;

(2) may not request the payment of transfer tuition for the student from the school corporation in which the student currently resides and has legal settlement or from the student's parent; and

(3) shall include the student in the school corporation's ADM; if the principal and superintendent in both school corporations jointly agree to enroll the student in the school.

(c) If a student enrolls under this section in a school described in subsection (b)(1), the student's parent must provide for the student's transportation to school.

(d) A student to whom this section applies may not enroll primarily for athletic reasons in a school in a school corporation in which the student does not have legal settlement. However, a decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a determination that the student did not enroll primarily for athletic reasons.

SECTION 3. IC 20-50 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 50. HOMELESS CHILDREN AND FOSTER CARE CHILDREN

Chapter 1. School Corporation Liaison for Homeless Children

Sec. 1. (a) As used in this chapter, "homeless child" means a minor who lacks a fixed, regular, and adequate nighttime residence.

(b) The term includes:

(1) a child who:

(A) shares the housing of other persons due to the child's loss of housing, economic hardship, or a similar reason;

(B) lives in a motel, hotel, or campground due to the lack of alternative adequate accommodations;

(C) lives in an emergency or transitional shelter;

(D) is abandoned in a hospital or other place not intended for general habitation; or

(E) is awaiting foster care placement;

(2) a child who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) a child who lives in a car, a park, a public space, an abandoned building, a bus station, a train station, substandard housing, or a similar setting; and

(4) a child of a migratory worker who lives in circumstances described in subdivisions (1) through (3).

Sec. 2. The department shall establish an office of coordinator for education of homeless children as required by 42 U.S.C. 11431 et seq.

Sec. 3. Each school corporation shall appoint an employee to be the school corporation's liaison for homeless children as required by 42 U.S.C. 11431 et seq.

Sec. 4. Each school corporation shall report to the department, by August 1 of each year, the name and contact information of the school corporation's liaison for homeless children.

Sec. 5. Each school corporation that has an Internet web site shall post the contact information of the school corporation's liaison for homeless children on the school corporation's Internet web site.

Sec. 6. Each year, the department shall provide training to individuals who are appointed under section 3 of this chapter as liaisons for homeless children.

Chapter 2. Tutoring and Mentoring for Homeless Children and Foster Care Children

Sec. 1. This chapter applies after June 30, 2009.

Sec. 2. As used in this chapter, "homeless child" has the meaning set forth in IC 20-50-1-1.

Sec. 3. Each school corporation shall provide tutoring for a child enrolled in a school operated by the school corporation who is:

(1) in foster care; or

(2) a homeless child;

if the school corporation determines the child has a demonstrated need for tutoring.

Chapter 3. Transportation of Students in Foster Care

Sec. 1. This chapter applies after June 30, 2009.

Sec. 2. As used in this chapter, "original school corporation" means the school corporation in which the school of origin of a student in foster care is located.

Sec. 3. As used in this chapter, "school of origin" means the school:

(1) that a student in foster care attended when the student last had a permanent residence; or

(2) in which a student in foster care was last enrolled.

Sec. 4. As used in this chapter, "transitional school corporation" means the school corporation in which a student in foster care temporarily stays.

Sec. 5. (a) If a student in foster care temporarily stays in the student's original school corporation but outside the attendance area of the student's school of origin, the original school corporation shall provide transportation for the student from the place where the student is temporarily staying to the school of origin and from the school of origin to the place where the student is temporarily staying.

(b) If:

(1) the school of origin of a student in foster care is located in a school corporation other than the school corporation in which the student is temporarily staying;

(2) the school of origin is located in a school corporation that adjoins the school corporation in which the student is temporarily staying; and

(3) the student does not elect to attend a school located in the school corporation in which the student in foster care is temporarily staying;

the original school corporation and the transitional school corporation shall enter into an agreement concerning the responsibility for and apportionment of the costs of transporting the student to and from the school of origin.

(c) If the original school corporation and the transitional school

corporation described in subsection (b) are unable to reach an agreement under subsection (b), the responsibility for transporting the student in foster care to and from the school of origin is shared equally between both school corporations, and the cost of transporting the student to and from the school of origin is apportioned equally between both school corporations.

SECTION 4. IC 31-9-2-13, AS AMENDED BY P.L.138-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) **Except as otherwise provided in this section,** "child", for purposes of the juvenile law, means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:

(A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and

(B) who either:

(i) is charged with a delinquent act committed before the person's eighteenth birthday; or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult;

(B) who was less than eighteen (18) years of age at the time of the alleged act; and

(C) who is less than twenty-one (21) years of age.

(e) "Child", for purposes of IC 31-36-3, means a person who is less than eighteen (18) years of age.

~~(e)~~ **(f)** "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

~~(f)~~ **(g)** "Child", for purposes of IC 31-16-12.5, means an individual

to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

~~(g)~~ **(h)** "Child", for purposes of IC 31-27 and IC 31-32-5, means an individual who is less than eighteen (18) years of age.

~~(h)~~ **(i)** "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

SECTION 5. IC 31-9-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, **IC 31-28-5,** and the juvenile law, means a community volunteer who:

(1) has completed a training program approved by the court;

(2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

SECTION 6. IC 31-9-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, IC 31-16-3, IC 31-19-16, IC 31-19-16.5, **IC 31-28-5,** and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

(1) represent and protect the best interests of a child; and

(2) provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 7. IC 31-9-2-116.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 116.5. "Services or items", for purposes of IC 31-36-3, has the meaning set forth in IC 31-36-3-1.**

SECTION 8. IC 31-9-2-117.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 117.3. "Sibling", for purposes of IC 31-28-5, means a brother or sister by blood, half-blood, or adoption.**

SECTION 9. IC 31-17-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A court, in a proceeding under IC 31-17-2, IC 31-17-4, this chapter, ~~or~~ IC 31-17-7, **or IC 31-28-5,** may appoint a guardian ad litem, a court appointed special advocate, or both, for a child at any time.

SECTION 10. IC 31-28-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Foster Care Sibling Visitation

Sec. 1. This chapter applies to:

(1) a child who receives foster care that is funded by the department or a county office; and

(2) a sibling of a child described in subdivision (1).

Sec. 2. The department shall make reasonable efforts to promote sibling visitation for every child who receives foster care, including visitation when one (1) sibling receives foster care and another sibling does not.

Sec. 3. A child, a child's foster parent, a child's guardian ad litem, a court appointed special advocate, or an agency that has the legal responsibility or authorization to care for, treat, or supervise a child may request the department to permit the child to have visitation with the child's sibling if the child or the child's sibling, or both, receive foster care. If the department finds that the sibling visitation is in the best interests of each child who receives foster care, the department shall permit the sibling visitation and establish a sibling visitation schedule.

Sec. 4. (a) If the department denies a request for sibling visitation under section 3 of this chapter, the child's guardian ad litem or court appointed special advocate may petition the juvenile

court with jurisdiction in the county in which the child receiving foster care is located for an order requiring sibling visitation.

(b) If the juvenile court determines it is in the best interests of the child receiving foster care to have sibling visitation, the juvenile court shall order sibling visitation and establish a schedule for the sibling visitation.

Sec. 5. (a) The juvenile court may appoint a guardian ad litem or court appointed special advocate if a child receiving foster care requests sibling visitation.

(b) The provisions of IC 31-17-6 apply to a guardian ad litem or court appointed special advocate appointed under this section.

SECTION 11. IC 31-36-3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3. Homeless Children

Sec. 1. As used in this chapter, "services or items" includes food, clothing, personal hygiene products, health care, and counseling.

Sec. 2. A child may receive shelter and services or items that are directly related to providing shelter to the child from:

(1) an emergency shelter;

(2) a shelter care facility; or

(3) a program that provides services or items that are directly related to providing shelter to individuals who are homeless or have a low income;

without the notification, consent, or permission of the child's parent, guardian, or custodian.

Sec. 3. (a) Except as provided in subsection (d), if a child voluntarily enters an emergency shelter or a shelter care facility, the shelter or facility shall notify the department, not later than twenty-four (24) hours after the child enters the shelter or facility, of the following:

(1) The name of the child.

(2) The location of the shelter or facility.

(3) Whether the child alleges that the child is the subject of abuse or neglect.

(b) The department shall conduct an investigation concerning the child not later than forty-eight (48) hours after receiving notification from the emergency shelter or shelter care facility under subsection (a).

(c) The department shall notify the child's parent, guardian, or custodian that the child is in an emergency shelter or a shelter care facility not later than seventy-two (72) hours after the child enters the shelter or facility. However, if the department has reason to believe that the child is a victim of child abuse or neglect, the department may not notify the child's parent, guardian, or custodian as to the specific shelter or facility the child has entered.

(d) An emergency shelter or a shelter care facility is not required to notify the department of a child who is an emancipated minor.

P.L.134-2008
[H.1172. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning health and professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "emergency management worker" includes any full-time or part-time paid, volunteer, or auxiliary employee of:

(1) the state;
(2) other:
  (A) states;
  (B) territories; or
  (C) possessions;
(3) the District of Columbia;
(4) the federal government;
(5) any neighboring country;
(6) any political subdivision of an entity described in subdivisions (1) through (5); or

(7) any agency or organization;

performing emergency management services at any place in Indiana subject to the order or control of, or under a request of, the state government or any political subdivision of the state. **The term includes a volunteer health practitioner registered under IC 10-14-3.5.**

SECTION 2. IC 10-14-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

(1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster emergency by executive order or proclamation.

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

(1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and

(2) is authority for:

(A) deployment and use of any forces to which the plan or plans apply; and

(B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who:

(A) are registered as volunteer health practitioners by an approved registration system under IC 10-14-3.5; or

(B) hold a license to practice medicine, dentistry, pharmacy, nursing, engineering, **veterinary medicine, mortuary service,** and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 3. IC 10-14-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3.5. Uniform Emergency Volunteer Health Practitioners Act

Sec. 1. As used in this chapter, "disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and:

(1) is designated or recognized as a provider of the services under a disaster response and recovery plan adopted by an agency of the federal government or the state emergency management agency; or

(2) regularly plans and conducts the entity's activities in coordination with an agency of the federal government or the state emergency management agency.

Sec. 2. As used in this chapter, "emergency" means an event or condition that is an emergency, a disaster, or a public health emergency under this article.

Sec. 3. As used in this chapter, "emergency declaration" means a declaration of emergency issued by a person authorized to do so under state or local laws of Indiana.

Sec. 4. As used in this chapter, "Emergency Management Assistance Compact" means the federal interstate compact under P.L.104-321, 110 Stat. 3877.

Sec. 5. As used in this chapter, "entity" means a person other than an individual.

Sec. 6. As used in this chapter, "health facility" means an entity licensed under the laws of Indiana or another state to provide health or veterinary services.

Sec. 7. As used in this chapter, "health practitioner" means an individual licensed under the laws of Indiana or another state to provide health or veterinary services.

Sec. 8. As used in this chapter, "health services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of individuals or human populations to the extent necessary to respond to an emergency, including:

(1) with respect to the physical or mental condition or functional status of an individual or the structure or function of the body:

(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(B) counseling, assessment, procedures, or other services;

(2) the sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(3) funeral, cremation, cemetery, or other mortuary services.

Sec. 9. As used in this chapter, "host entity" means an entity operating in Indiana that uses volunteer health practitioners to respond to an emergency.

Sec. 10. (a) As used in this chapter, "license" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization.

(b) The term includes authorization under Indiana law to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

Sec. 11. As used in this chapter, "person" means an individual,

a corporation, a business trust, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, an agency, an instrumentality, or another legal or commercial entity.

Sec. 12. As used in this chapter, "scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including conditions imposed by the licensing authority.

Sec. 13. As used in this chapter, "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

Sec. 14. As used in this chapter, "veterinary services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of an animal or to animal populations to the extent necessary to respond to an emergency, including:

(1) diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(2) use of a procedure for reproductive management; and

(3) monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

Sec. 15. (a) As used in this chapter, "volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) The term does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Indiana, unless the practitioner is not a resident of Indiana and is employed by a disaster relief organization providing services in Indiana while an emergency declaration is in effect.

Sec. 16. This chapter applies to volunteer health practitioners

who:

(1) are registered with a registration system that complies with section 18 of this chapter; and

(2) provide health or veterinary services in Indiana for a host entity while an emergency declaration is in effect.

Sec. 17. (a) While an emergency declaration is in effect, the state emergency management agency may limit, restrict, or otherwise regulate:

(1) the duration of practice by volunteer health practitioners;

(2) the geographical areas in which volunteer health practitioners may practice;

(3) the types of volunteer health practitioners who may practice; and

(4) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued under subsection (a) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in Indiana shall:

(1) consult and coordinate the host entity's activities with the state emergency management agency to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including this article.

Sec. 18. (a) To qualify as a volunteer health practitioner registration system, a system must:

(1) accept applications for the registration of volunteer health practitioners before or during an emergency;

(2) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;

(3) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and

(4) meet one (1) of the following conditions:

(A) Be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under section 319I of the federal Public Health Services Act, 42 U.S.C. 247d-7b.

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under section 2801 of the federal Public Health Services Act, 42 U.S.C. 300hh.

(C) Be operated by a:

(i) disaster relief organization;

(ii) licensing board;

(iii) national or regional association of licensing boards or health practitioners;

(iv) health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or

(v) governmental entity.

(D) Be designated by the state emergency management agency as a registration system for purposes of this chapter.

(b) While an emergency declaration is in effect, the state emergency management agency, a person authorized to act on behalf of the state emergency management agency, or a host entity may confirm whether volunteer health practitioners used in Indiana are registered with a registration system that complies with subsection (a). Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(c) Upon request of a person in Indiana authorized under subsection (b), or a similarly authorized person in another state, a registration system located in Indiana shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed

and in good standing.

Sec. 19. (a) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with section 18 of this chapter and licensed and in good standing in the state upon which the practitioner's registration is based, may practice in Indiana to the extent authorized by this chapter as if the practitioner were licensed in Indiana.

(b) A volunteer health practitioner qualified under subsection (a) is not entitled to the protections of this chapter if the practitioner is licensed in more than one (1) state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges or has been voluntarily terminated under threat of sanction.

Sec. 20. (a) As used in this section:

(1) "credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility; and

(2) "privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(b) This chapter does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

Sec. 21. (a) Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of Indiana.

(b) Except as provided in subsection (c), this chapter does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in Indiana would be permitted to provide the services.

(c) The state emergency management agency may modify or restrict the health or veterinary services that volunteer health

practitioners may provide under this chapter. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(d) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under this chapter.

(e) A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of a limitation, modification, or restriction under this section or that a similarly licensed practitioner in Indiana would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in Indiana would not be permitted to provide a service if:

(1) the practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service; or

(2) from all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service.

(f) In addition to the authority granted by laws of Indiana other than this chapter to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in Indiana:

(1) may impose administrative sanctions upon a health practitioner licensed in Indiana for conduct outside of Indiana in response to an out-of-state emergency;

(2) may impose administrative sanctions upon a practitioner not licensed in Indiana for conduct in Indiana in response to an in-state emergency; and

(3) shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(g) In determining whether to impose administrative sanctions under subsection (f), a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the

practitioner's scope of practice, education, training, experience, and specialized skill.

Sec. 22. (a) This chapter does not limit the rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter. Except as provided in subsection (b), this chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

(b) The state emergency management agency, under the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact, may incorporate into the emergency forces of Indiana volunteer health practitioners who are not officers or employees of Indiana, a political subdivision of Indiana, or a municipality or other local government within Indiana.

Sec. 23. The state emergency management agency may adopt rules under IC 4-22-2 to implement this chapter. In doing so, the state emergency management agency shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact and shall also consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

Sec. 24. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 4. IC 12-7-2-118.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 118.3. "Initiative", for purposes of IC 12-31-2, has the meaning set forth in IC 12-31-2-1.**

SECTION 5. IC 12-7-2-132.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 132.5. "Nonprofit corporation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-1.**

SECTION 6. IC 12-7-2-142.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 142.7. "Postnatal donation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-2.**

SECTION 7. IC 12-31 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 31. UMBILICAL CORD BLOOD

Chapter 1. Public Umbilical Cord Blood Bank

Sec. 1. As used in this article, "nonprofit corporation" refers to the Indiana nonprofit corporation formed by the office of the secretary under section 3 of this chapter to establish and operate a public umbilical cord blood bank.

Sec. 2. As used in this article, "postnatal donation" means any of the following donations by a patient to the public umbilical cord blood bank:

(1) Postnatal fluid, including umbilical cord blood.

(2) Postnatal tissue, including the placenta and tissue extracted from an umbilical cord.

Sec. 3. (a) The office of the secretary shall form a nonprofit corporation to establish and provide for the operation of a public umbilical cord blood bank to promote public health and to exercise other essential governmental functions.

(b) The office of the secretary shall adopt rules under IC 4-22-2 concerning the protection of individual identifiable health information regarding the operation of the public umbilical cord blood bank.

Sec. 4. (a) The board of directors of the nonprofit corporation consists of the following:

(1) The state health commissioner or the commissioner's designee.

(2) The secretary or the secretary's designee.

(3) The secretary of commerce appointed under IC 5-28-3-4 or the secretary's designee.

(4) The director of the state department of health's office of minority health.

(5) The following individuals appointed by the governor:

(A) One (1) president or chief executive officer of an Indiana based hospital.

(B) One (1) research scientist with expertise in umbilical cord blood research.

(C) One (1) ethicist with expertise in bioethics.

(D) One (1) physician licensed under IC 25-22.5 who specializes in birthing and delivery.

(E) One (1) representative of a donor umbilical cord blood bank facility.

(F) One (1) member of the interagency state council on black and minority health established under IC 16-46-6.

(b) The board of directors shall appoint an advisory board. At least fifty-one percent (51%) of the advisory board members must be research scientists with expertise in stem cell research.

(c) The advisory board, using criteria established by the board of directors, is responsible for reviewing applications from research scientists, research institutions, and other persons interested in receiving a postnatal donation that is ineligible for transplant use from the public umbilical cord blood bank.

(d) The board of directors may contract with a person to perform the management and administrative operations of the public umbilical cord blood bank. The person shall follow the federal Food and Drug Administration's current good tissue practices.

(e) Subject to approval by the budget agency, the board of directors may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees that the board of directors considers necessary to carry out the efficient operation of a public umbilical cord blood bank.

(f) The board of directors shall determine the terms and conditions of the participating agreement that is executed with each participating hospital.

Sec. 5. The nonprofit corporation shall do the following:

(1) Establish procedures and guidelines for collecting, maintaining, and receiving postnatal donations.

(2) Educate health care professionals about the procedures and requirements for collecting and maintaining postnatal donations following the birth of a newborn infant.

(3) Establish procedures concerning patient informed consent and privacy that are approved by an independent institutional

review board selected by the board of directors.

Sec. 6. (a) The nonprofit corporation shall accept postnatal donations at no charge or cost to the donor.

(b) The nonprofit corporation may allow the following to use the postnatal donations:

(1) Transplant centers.

(2) Research centers approved by the nonprofit corporation that will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

(3) Any other entity approved by the nonprofit corporation if the entity will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

(c) Any postnatal donations maintained by the public umbilical cord blood bank must be allocated as follows:

(1) Postnatal donations that are of transplantable quality according to the National Marrow Donor Program, the federal Food and Drug Administration's approved protocol, or other relevant national practice and quality standards must be allocated for medical transplants.

(2) Postnatal donations that do not meet the transplant quality standards referred to in subdivision (1) and that are suitable for research must be made available for scientific research or medical treatments that comply with relevant national practice and quality standards.

(d) The nonprofit corporation shall acquire and maintain adequate liability insurance coverage.

Sec. 7. The nonprofit corporation may maintain postnatal donations at no charge or cost to the donor.

Sec. 8. The nonprofit corporation may award a grant to a person for work with postnatal donations.

Sec. 9. The nonprofit corporation shall report annually to the health finance commission established by IC 2-5-23-3 concerning the following:

(1) The implementation of the umbilical cord blood bank.

(2) The number of postnatal donations used for transplants and the number of postnatal donations used for research.

Chapter 2. Umbilical Cord Blood Donation Initiative

Sec. 1. As used in this chapter, "initiative" refers to the umbilical cord blood donation initiative established under section

2 of this chapter.

Sec. 2. The nonprofit corporation shall establish an umbilical cord blood donation initiative to promote public awareness concerning the following:

(1) A pregnant woman's option to make a postnatal donation upon the birth of a newborn infant.

(2) The medical benefits of postnatal tissue and postnatal fluids.

(3) The importance of donating umbilical cord blood to the public umbilical cord blood bank.

Sec. 3. The nonprofit corporation may accept a grant from the federal government or money from the state government or private contributions to establish and implement the initiative.

Sec. 4. (a) The initiative must include the dissemination of written material that includes the following:

(1) Information concerning the option that is available to pregnant women to make a postnatal donation upon the birth of a newborn infant.

(2) An explanation of the benefits of public umbilical cord blood banking.

(3) The benefits of umbilical cord blood in accordance with the National Marrow Donor Program or another federal Food and Drug Administration approved protocol and the use of umbilical cord blood for medical treatment, including the following:

(A) A list of the diseases or conditions that have been treated through the use of umbilical cord blood.

(B) A list of the diseases or conditions for which scientific research indicates that treatment through the use of umbilical cord blood is promising.

(4) Information on the public umbilical cord blood bank.

(5) Information concerning the process by which postnatal tissue and postnatal fluid are collected and the steps that a pregnant woman must take before her child is born to arrange to have the postnatal tissue and postnatal fluid collected and donated.

(b) The nonprofit corporation shall:

(1) update the material described in subsection (a); and

(2) distribute the material to the following persons that treat

pregnant women:

(A) Physicians licensed under IC 25-22.5.

(B) Participating hospitals.

(C) Ambulatory surgical centers.

(D) Health clinics.

(E) Maternity homes registered under IC 16-26-1.

(F) Nurse midwives licensed under IC 25-23-1-13.1.

Sec. 5. The nonprofit corporation shall develop a process for physicians, nurse midwives, birthing centers, and participating hospitals to inform eligible candidates of the opportunity to make postnatal donations to the public umbilical cord blood bank following delivery of a newborn infant.

Sec. 6. The nonprofit corporation that establishes the initiative described in this chapter must meet all the requirements and responsibilities set forth in IC 23-17.

Sec. 7. (a) Any intellectual property developed by the nonprofit corporation establishing the initiative under this chapter is the property of the nonprofit corporation. A donor must consent to release to the public umbilical cord blood bank any property right related to the postnatal donation, including any claim of intellectual property rights derived from the postnatal donation.

(b) The entire right, title, and interest in and to any intellectual property derived from a postnatal donation transfers with the postnatal tissue and postnatal fluid after the postnatal donation is allocated by the public umbilical cord blood bank for research purposes.

SECTION 8. IC 16-18-2-36.5, AS ADDED BY P.L.96-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2 **and IC 16-21-7.5,** means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2.

SECTION 9. IC 16-20-1-14, AS AMENDED BY P.L.121-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Local health officers may appoint and employ public health nurses, environmental health specialists, computer programmers, clerks, other personnel, and an administrator

of public health, subject to the confirmation of the local board of health, as is necessary and reasonable to carry out and perform the duties of the local health department.

(b) Except as provided in subsection (d), the employees of local health departments shall perform any of the duties of the health officer delegated by the health officer, with the approval of the local board of health, on the basis of an agent-principal relation.

(c) The public health personnel of local health departments:

(1) must meet the minimum qualification requirements of the local board of health;

(2) by local ordinance, become part of the county classification system for the respective public health personnel positions; and

(3) shall perform additional duties prescribed by the rules of the state department and local board of health under the general supervision of the local health officer.

(d) If an appointee or employee of a local health officer is not a licensed water well driller under IC 25-39-3, the appointee or employee may not inspect the drilling of a water well.

~~(e) After a dentist licensed under IC 25-14 who is employed by a local health department examines a child enrolled in any grade up to and including grade 12 and prescribes a treatment plan in writing for the child, a licensed dental hygienist employed by the local health department may, without supervision by the dentist, provide the child with the following treatment in accordance with the treatment plan:~~

~~(1) Prophylaxis.~~

~~(2) Fluoride application.~~

~~(3) Sealants.~~

~~However, the treatment must be completed not more than ninety (90) days after the dentist prescribes the treatment plan. This subsection expires June 30, 2009.~~

SECTION 10. IC 16-21-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7.5. Hospital and Birthing Center Requirement Regarding Umbilical Cord Blood Donation

Sec. 1. As used in this chapter, "postnatal donation" has the meaning set forth in IC 12-31-1-2.

Sec. 2. Before a hospital or birthing center participates in

collecting donations for the public umbilical cord blood bank established under IC 12-31-1-3(a), the hospital or birthing center shall enter into a written agreement with the public umbilical cord blood bank establishing the:

(1) conditions of the hospital's or birthing center's participation; and

(2) obligations of the hospital or birthing center;

in the umbilical cord blood donation initiative established under IC 12-31-2-2.

Sec. 3. (a) Except as provided in section 4 of this chapter, a participating hospital or birthing center licensed under this article must offer a patient who delivers a newborn infant at the participating hospital or birthing center the option of making a postnatal donation following delivery of the newborn infant.

(b) A patient may not be charged for the collection or storage of a donation or for a donation to the public umbilical cord blood bank established under IC 12-31-1-3(a).

Sec. 4. (a) A participating hospital or birthing center is not required to collect a postnatal donation if either of the following applies:

(1) In the professional judgment of a physician licensed under IC 25-22.5 or a nurse midwife licensed under IC 25-23-1-13.1, the collection would threaten the health of the mother or the infant.

(2) The postnatal donation is contrary to the moral principles or beliefs of the religious denomination with which the participating hospital or birthing center is affiliated.

(b) An employee of a participating hospital or birthing center is not required to collect a postnatal donation if the postnatal donation is contrary to the religious principles or beliefs of the employee.

Sec. 5. A participating hospital or birthing center shall cooperate with the nonprofit corporation (as defined in IC 12-31-1-1) in accomplishing the public health goal of maximizing postnatal donations.

Sec. 6. A hospital or birthing center is not required to enter into an agreement with the public umbilical cord blood bank and may enter into contracts concerning postnatal tissue and postnatal fluids with any person.

SECTION 11. IC 16-22-8-34, AS AMENDED BY P.L.121-2007, SECTION 2, AS AMENDED BY P.L.194-2007, SECTION 4, AND AS AMENDED BY P.L.215-2007, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish *isolation and* quarantine regulations ~~*impose restrictions on persons having infectious or contagious diseases and contacts of the persons; and regulate the disinfection of premises.*~~ *in accordance with IC 16-41-9.*

(D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the animals' breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

~~*(M)*~~ *(N)* To license and regulate the design, construction, and operation of public pools, spas, and beaches.

~~*(N)*~~ *(O)* To regulate the storage, containment, handling, use, and disposal of hazardous materials.

~~*(O)*~~ *(P)* To license and regulate tattoo ~~*parlors*~~ and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To ~~*furnish*~~ *provide* ~~*school based*~~ ~~health~~ ~~*and nursing*~~ **furnish health and nursing** services ~~*to elementary and secondary schools within the county.*~~ **to elementary and secondary schools within the county.**

(6) To furnish medical care to ~~*the indigent within*~~ *insured and uninsured residents of* the county. ~~*unless medical care is furnished to the indigent by the division of family resources.*~~

(7) To furnish dental services to the insured and uninsured residents of the county. ~~*including the services as provided in subsection (c) until the expiration of subsection (c).*~~

~~*(7)*~~ *(8)* To ~~*determine the*~~ *establish* public health ~~*policies and*~~ programs. ~~*to be carried out and administered by the corporation.*~~

~~*(8)*~~ *(9)* To adopt an annual budget ordinance and levy taxes.

~~*(9)*~~ *(10)* To incur indebtedness in the name of the corporation.

~~*(10)*~~ *(11)* To organize ~~*the personnel and functions of*~~ the

corporation into divisions. ~~*and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.*~~

~~*(11)*~~ *(12)* To acquire and dispose of property.

~~*(12)*~~ *(13)* To receive charitable contributions and gifts as provided in 26 U.S.C. 170.

~~*(13)*~~ *(14)* To make charitable contributions and gifts.

~~*(14)*~~ *(15)* To establish a charitable foundation as provided in 26 U.S.C. 501.

~~*(15)*~~ *(16)* To receive and distribute federal, state, local, or private grants.

~~*(16)*~~ *(17)* To receive and distribute grants from charitable foundations.

~~*(17)*~~ *(18)* To establish ~~*nonprofit*~~ corporations *and enter into partnerships and joint ventures* to carry out the purposes of the corporation. *This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.*

~~*(18)*~~ *(19)* To erect, *improve, remodel, or repair corporation* buildings. ~~*or structures or improvements to existing buildings or structures.*~~

~~*(19)*~~ *(20)* To determine ~~*matters of policy regarding internal organization and*~~ operating procedures.

~~*(20)*~~ *(21)* To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient, *the patient's insurance company,* or ~~*from the governmental unit where the patient resided at the time of the service.*~~ *a government program.*

(C) Require security for the payment of the charges.

~~*(21)*~~ *(22)* To adopt a schedule of and to collect reasonable charges for ~~*patients able to pay in full or in part.*~~ *medical and mental health services.*

~~*(22)*~~ *(23)* To enforce Indiana laws, administrative rules, *ordinances,* and the code of the health and hospital corporation of the county.

~~*(23)*~~ *(24)* To purchase supplies, materials, and equipment. ~~*for the corporation.*~~

~~(24)~~ *(25)* To employ personnel and establish personnel policies. ~~to carry out the duties, functions, and powers of the corporation.~~

~~(25)~~ *(26)* To employ attorneys admitted to practice law in Indiana.

~~(26)~~ *(27)* To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~(27)~~ *(28)* To dispose of surplus property in accordance with a policy by the board.

~~(28)~~ *(29)* To determine the duties of officers and division directors.

~~(29)~~ *(30)* To fix the compensation of the officers and division directors.

~~(30)~~ *(31)* To carry out the purposes and object of the corporation.

~~(31)~~ *(32)* To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~(32)~~ *(33)* To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. *IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.*

~~(33)~~ **(34)** *To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.*

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

~~(c) After a dentist licensed under IC 25-14 who is employed by a local health department or the health and hospital corporation examines a child enrolled in any grade up to and including grade 12 and prescribes a treatment plan in writing for the child, a licensed dental hygienist employed by the local health department or the health and hospital corporation may, without supervision by the dentist, provide the child with the following treatment in accordance with the treatment plan:~~

~~(1) Prophylaxis.~~

~~(2) Fluoride application.~~

~~*(3) Sealants.*~~

~~*However, the treatment must be completed not more than ninety (90) days after the dentist prescribes the treatment plan. This subsection expires June 30, 2009.*~~

SECTION 12. IC 16-27-2-5, AS AMENDED BY P.L.197-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if ~~a determination of~~ that person's **limited criminal history check or** national criminal history background check indicates that the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Exploitation of an endangered adult (IC 35-46-1-12).

(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(6) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (2) for which the conviction was entered in another state.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of ~~a determination of~~ that person's **limited criminal history or** national criminal history background check required by section 4 of this chapter, unless either the state police department or the Federal Bureau of Investigation under IC 10-13-3-39 is responsible for failing to provide ~~the determination of~~ the person's **limited criminal history or** national criminal history background check to the home health agency or personal services agency within the time required under this subsection.

SECTION 13. IC 16-28-11-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) This section does not**

apply to the implementation of a do not resuscitate order.

(b) This article does not require an employee of a health facility to provide cardiopulmonary resuscitation (CPR) or other intervention on a patient if a registered nurse licensed under IC 25-23 or a physician licensed under IC 25-22.5 who is employed by the health facility has determined that the following criteria have been met:

(1) The patient has experienced an unwitnessed cessation of circulatory and respiratory functions.

(2) The patient is unresponsive.

(3) The patient's pupils are fixed and dilated.

(4) The patient's body temperature indicates hypothermia.

(5) The patient has generalized cyanosis.

(6) The patient has livor mortis.

SECTION 14. IC 24-4-15-5, AS ADDED BY P.L.129-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. An owner or operator of a health club shall do the following:

(1) Ensure that a defibrillator is:

(A) located on the health club premises and ~~is~~ easily accessible to the health club staff, members, and guests; **or**

(B) if:

(i) the health club is located on the premises of a business of which the health club is a part; and

(ii) the business has an emergency response team;

located on the premises of the business and easily accessible to the emergency response team.

(2) Employ at least one (1) individual who:

(A) has satisfactorily completed a course ~~approved by the American Red Cross or the American Heart Association~~ **consistent with the most current national guidelines for;** and

(B) is currently certified in;

cardiopulmonary resuscitation and defibrillator use.

(3) Reasonably ensure that at least one (1) individual described ~~under~~ **in** subdivision (2) is on the health club premises when staff is present at the health club during the health club's business hours.

(4) A health club that is not staffed must have the following on the premises:

(A) A telephone for 911 telephone call access.

(B) A sign in plain view containing an advisory warning that indicates that members of the unstaffed health ~~spa~~ **club** should be aware that working out alone may pose risks to ~~the~~ **a** health ~~spa~~ **club** member's health and safety.

(C) A sign in plain view providing instruction in the use of the ~~automated~~ ~~external~~ defibrillator and in cardiopulmonary resuscitation.

(5) Ensure compliance with the requirements set forth in IC 16-31-6.5.

(6) Post a sign at each entrance to the health club that indicates the location of each defibrillator.

SECTION 15. IC 24-4-15-7, AS ADDED BY P.L.129-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. ~~(a)~~ The:

(1) state department and the division of fire and building safety may inspect a health club at any time:

~~(1)~~ **(A)** according to rules adopted by the state department; or

~~(2)~~ **(B)** in response to a filed complaint alleging noncompliance with this chapter; **and**

(2) fire department that serves the area in which a health club is located shall inspect the health club for compliance with this chapter if the health club is inspected as part of an inspection program under IC 36-8-17-8.

~~(b) A fire department may inspect a health club for compliance with this chapter as part of an inspection program under IC 36-8-17-8.~~

SECTION 16. IC 25-1-7-1, AS AMENDED BY P.L.185-2007, SECTION 4, AS AMENDED BY P.L.193-2007, SECTION 4, AND AS AMENDED BY P.L.200-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of

the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

(15) Indiana board of pharmacy (IC 25-26).

(16) Indiana plumbing commission (IC 25-28.5-1-3).

(17) Board of podiatric medicine (IC 25-29-2-1).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2).

(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(24) Respiratory care committee (IC 25-34.5).

(25) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*

(26) Occupational therapy committee (IC 25-23.5).

(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) State board of registration for land surveyors (IC 25-21.5-2-1).

(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).

(33) Indiana hypnotist committee (IC 25-20.5-1-7).

(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) Home inspectors licensing board (IC 25-20.2-3-1).

(37) State department of health, **for out-of-state mobile health care entities.**

~~*(37)*~~ **(38)** *State board of massage therapy (IC 25-21.8-2-1).*

~~*(37)*~~ ~~*(38)*~~ **(39)** Any other occupational or professional agency created after June 30, 1981.

SECTION 17. IC 25-2.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country ~~under qualifications substantially equivalent to those specified in this chapter for a license~~ to practice acupuncture;

(2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

(A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and

(C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant is a:

(1) chiropractor licensed under IC 25-10;

(2) dentist licensed under IC 25-14; or

(3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

(1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and

(2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of

practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).

SECTION 18. IC 25-2.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

~~(b) Subject to subsection (c), it is unlawful for a licensed acupuncturist, other than a chiropractor licensed under IC 25-10, podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14, to practice acupuncture on a patient unless the acupuncturist obtains:~~

~~(1) a written letter of referral; and~~

~~(2) either:~~

~~(A) a written diagnosis of the patient; or~~

~~(B) written documentation relating to the condition for which the patient receives acupuncture;~~

~~from an individual licensed under IC 25-22.5 within the twelve (12) months immediately preceding the date of acupuncture treatment.~~

~~(c) An acupuncturist licensed under this article may practice auricular acupuncture on a patient for the purpose of treating alcoholism, substance abuse, or chemical dependency without a written letter of referral or written diagnosis from a physician licensed under IC 25-22.5.~~

~~(d)~~ **(b)** If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5, ~~as described in subsection (b),~~ the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except for acts or omissions of the physician that amount to gross negligence or willful or wanton misconduct.

SECTION 19. IC 25-13-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this article:

(a) "Dental hygienist" means one who is especially educated and trained in the science and art of maintaining the dental health of the individual or community through prophylactic or preventive measures applied to the teeth and adjacent structures.

(b) "License" means the license to practice dental hygiene issued by the state board of dentistry to dental hygienist candidates who

satisfactorily pass the board's examinations.

(c) "Board" means the state board of dentistry established by IC 25-14-1.

(d) "Proprietor dentist" means a licensed dentist who is the owner and operator of the dental office in which he practices the profession of dentistry and who employs at least one (1) dentist or dental hygienist to supplement his operation and conduct of his dental office.

(e) "Employer dentist" means a proprietor dentist who employs at least one (1) dental hygienist to supplement his dental service to his clientele.

(f) "Referral" means a recommendation that a patient seek further dental care from a licensed dentist, but not a specific dentist.

(g) "Screening" means to identify and assess the health of the hard or soft tissues of the human oral cavity.

(h) "Public health setting" means a location, including a mobile health care vehicle, where the public is invited for health care, information, and services by a program sponsored or endorsed by a governmental entity or charitable organization.

(i) "Direct supervision" means that a licensed dentist is physically present in the facility when patient care is provided by the dental hygienist.

(j) "Prescriptive supervision" means that a licensed dentist is not required to be physically present in the facility when patient care is provided by the dental hygienist if a licensed dentist has examined the patient and has prescribed the patient care within the previous forty-five (45) days.

SECTION 20. IC 25-13-1-10, AS AMENDED BY P.L.121-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A licensed dental hygienist may ~~be employed to~~ practice dental hygiene in Indiana in the following:

(1) ~~The~~ **A dental** office **or clinical setting, except as described in subdivisions (3) through (5), where the dental hygienist is practicing under the direct supervision** of a legally practicing ~~proprietor~~ dentist.

(2) A dental school or dental hygiene school to teach and demonstrate the practice of dental hygiene **if direct supervision by a licensed dentist is provided for training on providing local anesthetics by injection.**

(3) The dental clinic of any public, parochial, or private school or other institution supported by public or private funds in which the licensee is employed by the state department of health or any county or city board of health or board of education or school trustee or parochial authority or the governing body of any private school ~~However, institutional practice, other than dental hygiene instruction and dental prophylaxis for children up to and including grade 12 pupils at all times must be~~ **where the dental hygienist is practicing** under the **direct or prescriptive** supervision of a licensed dentist.

(4) The dental clinic of a bona fide hospital, sanitarium, or ~~eleemosynary~~ **charitable** institution duly established and being operated under the laws of Indiana in which the licensee is employed by the directors or governing board of such hospital, sanitarium, or institution. However, such practice must be under the **direct or prescriptive** supervision at all times of a licensed dentist who is a staff member of the hospital or sanitarium or a member of the governing board of the institution.

(5) ~~The~~ **A:**

(A) fixed charitable dental **care** clinic; ~~of an industrial or a commercial establishment in which the licensee's services are~~

(B) public health setting; or

(C) correctional institution;

that has been approved by the board and where the dental hygienist is under the **direct or prescriptive** supervision of a licensed dentist.

(b) A licensed dental hygienist may provide without supervision the following:

(1) Dental hygiene instruction and in-service training without restriction on location.

~~(2) Dental prophylaxis for children up to and including grade 12 if the dental hygienist is employed by any of the following:~~

~~(A) The state department of health.~~

~~(B) The department of education.~~

~~(C) The elementary or secondary school where the services are provided.~~

~~(3)~~ **(2)** Screening and referrals for any person in a public health setting.

~~(4) Services as provided in IC 16-20-1-14 and IC 16-22-8-34.~~

SECTION 21. IC 25-13-1-10.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.6. (a) A licensed dental hygienist may administer local dental anesthetics under the direct supervision of a licensed dentist if the dental hygienist has:**

(1) completed board approved educational requirements, including cardiopulmonary resuscitation and emergency care training; and

(2) received a board issued dental hygiene anesthetic permit.

(b) Local dental anesthetics do not include nitrous oxide or similar anesthetics.

SECTION 22. IC 25-13-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A person is deemed to be practicing dental hygiene within the meaning of this chapter who:

(1) uses the titles "Licensed Dental Hygienist", "Dental Hygienist", or the letters "L.D.H." or "D.H." in connection with his or her name;

(2) holds himself or herself out to the public in any manner that he or she can or will render services as a dental hygienist;

(3) removes calcific deposits or accretions from the surfaces of human teeth or cleans or polishes such teeth;

(4) applies and uses within the patient's mouth such antiseptic sprays, washes, or medicaments for the control or prevention of dental caries as his or her employer dentist may direct;

(5) treats gum disease; ~~or~~

(6) uses impressions and x-ray photographs for treatment purposes; **or**

(7) administers local dental anesthetics, except for the administration of local dental anesthetics by:

(A) a dentist as provided in IC 25-14-1-23(a)(6); or

(B) a physician licensed under IC 25-22.5.

SECTION 23. IC 25-14-1-1.5, AS AMENDED BY P.L.1-2006, SECTION 430, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. As used in this article:

"Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

"Board" refers to the state board of dentistry established under this

chapter.

"Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic method.

"Dental assistant" means a qualified dental staff member, other than a licensed dental hygienist, who assists a licensed dentist with patient care while working under the dentist's direct supervision.

"Direct supervision" means that a licensed dentist is physically present in the facility when patient care is provided by the dental assistant.

"General anesthesia" means a controlled state of unconsciousness, accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic method.

"Light parenteral conscious sedation" means a minimally depressed level of consciousness under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by an intravenous pharmacologic method.

SECTION 24. IC 25-14-1-23, AS AMENDED BY P.L.121-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) A person is practicing dentistry within the meaning of this chapter if the person does any of the following:

(1) Uses the word "dentist" or "dental surgeon", the letters "D.D.S." or "D.M.D.", or other letters or titles in connection with dentistry.

(2) Directs and controls the treatment of patients within a place where dental services are performed.

(3) Advertises or permits to be advertised by sign, card, circular, handbill, newspaper, radio, or otherwise that ~~he~~ **the person** can or will attempt to perform dental operations of any kind.

(4) Offers to diagnose or professes to diagnose or treats or professes to treat any of the lesions or diseases of the human oral cavity, teeth, gums, or maxillary or mandibular structures.

(5) Extracts human teeth or corrects malpositions of the teeth or jaws.

(6) Except as provided in IC 25-13-1-10.5 **and IC 25-13-1-10.6,** administers dental anesthetics.
(7) Uses x-ray pictures for dental diagnostic purposes.
(8) Makes impressions or casts of any oral tissues or structures for the purpose of diagnosis or treatment thereof or for the construction, repair, reproduction, or duplication of any prosthetic device to alleviate or cure any oral lesion or replace any lost oral structures, tissue, or teeth.
(9) Advertises to the public by any method, except trade and professional publications, to furnish, supply, construct, reproduce, repair, or adjust any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.
(10) Is the employer of a dentist who is hired to provide dental services.
(11) Directs or controls the use of dental equipment or dental material while the equipment or material is being used to provide dental services. However, a person may lease or provide advice or assistance concerning dental equipment or dental material if the person does not restrict or interfere with the custody, control, or use of the equipment or material by the dentist. This subdivision does not prevent a dental hygienist who is licensed under IC 25-13 from owning dental equipment or dental materials within the dental hygienist's scope of practice.
(12) Directs, controls, or interferes with a dentist's clinical judgment.
(13) Exercises direction or control over a dentist through a written contract concerning the following areas of dental practice:

(A) The selection of a patient's course of treatment.
(B) Referrals of patients, except for requiring referrals to be within a specified provider network, subject to the exceptions under IC 27-13-36-5.
(C) Content of patient records.
(D) Policies and decisions relating to refunds, if the refund payment would be reportable under federal law to the National Practitioner Data Bank, and warranties.
(E) The clinical content of advertising.
(F) Final decisions relating to the employment of dental office personnel.

However, this subdivision does not prohibit a person from providing advice or assistance concerning the areas of dental practice referred to in this subdivision or an insurer (as defined in IC 27-1-26-1) from carrying out the applicable provisions of IC 27 under which the insurer is licensed.

However, a person does not have to be a dentist to be a manufacturer of dental prostheses.

(b) In addition to subsection (a), a person is practicing dentistry who directly or indirectly by any means or method furnishes, supplies, constructs, reproduces, repairs, or adjusts any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth and delivers the resulting product to any person other than the duly licensed dentist upon whose written work authorization the work was performed. A written work authorization shall include the following:

(1) The name and address of the dental laboratory to which it is directed.

(2) The case identification.

(3) A specification of the materials to be used.

(4) A description of the work to be done and, if necessary, diagrams thereof.

(5) The date of issuance of the authorization.

(6) The signature and address of the licensed dentist or other dental practitioner by whom the work authorization is issued.

A separate work authorization shall be issued for each patient of the issuing licensed dentist or other dental practitioner for whom dental technological work is to be performed.

(c) This section shall not apply to those procedures which a legally licensed and practicing dentist may delegate to ~~competent office personnel~~ **a dental assistant** as to which procedures the dentist exercises **direct** supervision and responsibility. ~~Delegated~~

(d) Procedures **delegated by a dentist** may not include ~~either:~~ **the following:**

(1) Those procedures which require professional judgment and skill such as diagnosis, treatment planning, ~~and~~ the cutting of hard or soft tissues, or any intraoral impression which would lead to the fabrication of ~~an appliance, which, when worn by the patient, would come in direct contact with hard or soft tissues and which~~

~~could result in tissue irritation or injury; or~~ **a final prosthetic appliance.**

(2) ~~those~~ **Except for procedures described in subsections (g) and (h), procedures delegated to a dental assistant may not include** procedures allocated under IC 25-13-1 to **a** licensed dental ~~hygienists.~~ **hygienist.**

(e) This chapter shall not prevent dental students from performing dental operations under the supervision of competent instructors within the dental school or a university recognized by the board or in any public clinic under the supervision of the authorized superintendent of such clinic authorized under the authority and general direction of the board of health or school board of any city or town in Indiana.

~~(d)~~ **(f)** Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary in the practice of dentistry.

(g) Notwithstanding IC 25-13-1-11(4), a dental assistant who has completed a board approved curriculum may apply medicaments for the control or prevention of dental caries under the direct supervision of a licensed dentist. The curriculum must include instruction on the following:

(1) Ethics and jurisprudence.

(2) Reasons for fluorides.

(3) Systemic fluoride.

(4) Topical fluoride.

(5) Fluoride application.

(6) Laboratory work on topical fluoride applications and patient competency.

(h) Notwithstanding IC 25-13-1-11(3), a dental assistant who has completed a board approved curriculum may polish the coronal surface of teeth under the direct supervision of a licensed dentist. The curriculum must include instruction on the following:

(1) Ethics and jurisprudence.

(2) Plaque and materia alba.

(3) Intrinsic and extrinsic stain.

(4) Abrasive agents.

(5) Use of a slow speed hand piece, prophy cup, and occlusal polishing brush.

(6) Theory of selective polishing.

(7) Laboratory work concerning slow speed hand piece, hand dexterity, and patient competency.

SECTION 25. IC 25-20.5-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter does not apply to the following **if the person has received training in the performance of hypnotism:**

(1) A licensed dentist practicing dentistry under IC 25-14.

(2) A licensed physician practicing medicine under IC 25-22.5.

(3) A licensed osteopath practicing medicine under IC 25-22.5.

(4) A licensed psychologist practicing psychology under IC 25-33.

(5) A ~~certified~~ **licensed** social worker or clinical social worker practicing social work or clinical social work under IC 25-23.6.

(6) A registered nurse licensed under IC 25-23.

(7) A ~~certified~~ **licensed** marriage and family therapist practicing marriage and family therapy under IC 25-23.6.

(8) A licensed mental health counselor practicing mental health counseling under IC 25-23.6.

~~(8)~~ **(9)** An individual who teaches Lamaze prenatal and delivery relaxation techniques to pregnant women.

~~(9)~~ **(10)** A law enforcement officer who:

(A) is trained in hypnotism; and

(B) uses hypnosis only for law enforcement purposes.

~~(10)~~ **(11)** A licensed chiropractor practicing the science of chiropractic under IC 25-10.

~~(11)~~ **(12)** An individual who performs hypnotism exclusively for entertainment or amusement purposes at a theater, night club, or other place that offers entertainment to the public for consideration or promotional purposes.

SECTION 26. IC 25-23-1-1.1, AS AMENDED BY P.L.1-2007, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) As used in this chapter, "registered nurse" means a person who holds a valid license issued:

(1) under this chapter; **or**

(2) by a party state (as defined in IC 25-23.3-2-11); and

who bears primary responsibility and accountability for nursing practices based on specialized knowledge, judgment, and skill derived from the principles of biological, physical, and behavioral sciences.

(b) As used in this chapter, "registered nursing" means performance of services which include but are not limited to:

(1) assessing health conditions;

(2) deriving a nursing diagnosis;

(3) executing a nursing regimen through the selection, performance, and management of nursing actions based on nursing diagnoses;

(4) advocating the provision of health care services through collaboration with or referral to other health professionals;

(5) executing regimens delegated by a physician with an unlimited license to practice medicine or osteopathic medicine, a licensed dentist, a licensed chiropractor, a licensed optometrist, or a licensed podiatrist;

(6) teaching, administering, supervising, delegating, and evaluating nursing practice;

(7) delegating tasks which assist in implementing the nursing, medical, or dental regimen; or

(8) performing acts which are approved by the board or by the board in collaboration with the medical licensing board of Indiana.

(c) As used in this chapter, "assessing health conditions" means the collection of data through means such as interviews, observation, and inspection for the purpose of:

(1) deriving a nursing diagnosis;

(2) identifying the need for additional data collection by nursing personnel; and

(3) identifying the need for additional data collection by other health professionals.

(d) As used in this chapter, "nursing regimen" means preventive, restorative, maintenance, and promotion activities which include meeting or assisting with self-care needs, counseling, and teaching.

(e) As used in this chapter, "nursing diagnosis" means the identification of needs which are amenable to nursing regimen.

SECTION 27. IC 25-23-1-1.2, AS AMENDED BY P.L.1-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. As used in this chapter, "licensed practical nurse" means a person who holds a valid license issued under this chapter **or by a party state (as defined in**

IC 25-23.3-2-11) and who functions at the direction of:

(1) a registered nurse;

(2) a physician with an unlimited license to practice medicine or osteopathic medicine;

(3) a licensed dentist;

(4) a licensed chiropractor;

(5) a licensed optometrist; or

(6) a licensed podiatrist;

in the performance of activities commonly performed by practical nurses and requiring special knowledge or skill.

SECTION 28. IC 25-23-1-7, AS AMENDED BY P.L.1-2007, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The board shall do the following:

(1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.

(2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.

(3) Provide for surveys of such programs at such times as it considers necessary.

(4) Accredit such programs as meet the requirements of this chapter and of the board.

(5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.

(6) Examine, license, and renew the license of qualified applicants.

(7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.

(8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.

(9) Adopt rules under IC 4-22-2 that do the following:

(A) Prescribe standards for the competent practice of registered, practical, and advanced practice nursing.

(B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice nurses must meet to be granted authority to prescribe legend

drugs and to retain that authority.

(C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.

(10) Keep a record of all its proceedings.

(11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.

(12) Adopt rules and administer the interstate nurse licensure compact under IC 25-23.3.

(b) The board may do the following:

(1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the board.

(2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the subcommittees may include the following:

(A) Recommendation of rules necessary to carry out the duties of the board.

(B) Recommendations concerning educational programs and requirements.

(C) Recommendations regarding examinations and licensure of applicants.

(3) Appoint nurses to serve on each of the ad hoc subcommittees.

(4) Withdraw from the interstate nurse licensure compact under IC 25-23.2 (repealed).

(5) If requested by the nonprofit corporation formed under IC 12-31-1-3, provide assistance to the public umbilical cord blood bank and umbilical cord blood donation initiative.

(c) Nurses appointed under subsection (b) must:

(1) be committed to advancing and safeguarding the nursing profession as a whole; and

(2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 29. IC 25-23-1-11, AS AMENDED BY P.L.1-2007, SECTION 173, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: Sec. 11. (a) Any person who applies to the board for a license to practice as a registered nurse must:

(1) not have:

(A) been convicted of a crime that has a direct bearing on the person's ability to practice competently; or

(B) committed an act that would constitute a ground for a disciplinary sanction under IC 25-1-9;

(2) have completed:

(A) the prescribed curriculum and met the graduation requirements of a state accredited program of registered nursing that only accepts students who have a high school diploma or its equivalent as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of and professionally competent to safely engage in the practice of nursing as determined by the board.

The board may not require a person to have a baccalaureate degree in nursing as a prerequisite for licensure.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a registered nurse to an applicant who has been licensed as a registered nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time that the applicant applies for an Indiana license by endorsement, the applicant holds a current license in another state and possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what constitutes substantial equivalence under this subsection.

(d) The board may issue by endorsement a license to practice as a

registered nurse to an applicant who:

(1) has completed the English version of the:

(A) Canadian Nurse Association Testing Service Examination **(CNAT); or**

(B) Canadian Registered Nurse Examination (CRNE);

(2) achieved the passing score required on the examination at the time the examination was taken;

(3) is currently licensed in a Canadian province or in another state; and

(4) meets the other requirements under this section.

(e) Each applicant for examination and registration to practice as a registered nurse shall pay a fee set by the board, ~~The board may set a proctoring fee to be paid by applicants who are graduates of a state accredited school in another state.~~ **a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses.** Payment of the fee or fees shall be made by the applicant prior to the date of examination. **The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:**

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(f) Any person who holds a license to practice as a registered nurse in:

(1) Indiana; **or**

(2) a party state (as defined in IC 25-23.3-2-11);

may use the title "Registered Nurse" and the abbreviation "R.N.". No other person shall practice or advertise as or assume the title of registered nurse or use the abbreviation of "R.N." or any other words, letters, signs, or figures to indicate that the person using same is a registered nurse.

SECTION 30. IC 25-23-1-12, AS AMENDED BY P.L.1-2007, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A person who applies to the board for a license to practice as a licensed practical nurse must:

(1) not have been convicted of:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-9; or

(B) a crime that has a direct bearing on the person's ability to practice competently;

(2) have completed:

(A) the prescribed curriculum and met the graduation requirements of a state accredited program of practical nursing that only accepts students who have a high school diploma or its equivalent, as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of, and professionally competent to, safely engage in the practice of practical nursing as determined by the board.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a licensed practical nurse to an applicant who has been licensed as a licensed practical nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time of application for an Indiana license by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what shall constitute substantial equivalence under this subsection.

(d) Each applicant for examination and registration to practice as a practical nurse shall pay a fee set by the board, ~~The board may set a proctoring fee to be paid by applicants who are graduates of a state accredited school in another state.~~ **a part of which must be used for the rehabilitation of impaired registered nurses and impaired**

licensed practical nurses. Payment of the fees shall be made by the applicant before the date of examination. **The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:**

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(e) Any person who holds a license to practice as a licensed practical nurse in:

(1) Indiana; **or**

(2) a party state (as defined in IC 25-23.3-2-11);

may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall practice or advertise as or assume the title of licensed practical nurse or use the abbreviation of "L.P.N." or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

SECTION 31. IC 25-23-1-16.1, AS AMENDED BY P.L.1-2006, SECTION 451, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16.1. (a) A license to practice as a registered nurse expires on October 31 in each odd-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(b) A license to practice as a licensed practical nurse expires on October 31 in each even-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(c) The procedures and fee for renewal shall be set by the board.

(d) At the time of license renewal, each registered nurse and each licensed practical nurse shall pay a renewal fee, a portion of which shall be for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:

(1) ~~Sixteen percent (16%)~~ **Twenty-five percent (25%)** of the license renewal fee per license renewed under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

SECTION 32. IC 25-23-1-27, AS AMENDED BY P.L.1-2007, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. A person who:

(1) sells or fraudulently obtains or furnishes any nursing diploma, license or record;

(2) practices nursing under cover of any diploma or license or record illegally or fraudulently obtained or assigned or issued unlawfully or under fraudulent representation;

(3) practices nursing as a registered nurse or licensed practical nurse unless licensed to do so under this chapter **or IC 25-23.3;**

(4) uses in connection with the person's name any designation tending to imply that the person is a registered nurse or a licensed practical nurse unless licensed to practice under this chapter **or IC 25-23.3;**

(5) practices nursing during the time the person's license issued under this chapter **or IC 25-23.3** is suspended or revoked;

(6) conducts a school of nursing or a program for the training of practical nurses unless the school or program has been accredited by the board; or

(7) otherwise violates this chapter;

commits a Class B misdemeanor.

SECTION 33. IC 25-23-1-34, AS AMENDED BY P.L.1-2007, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. (a) The impaired nurses account is established within the state general fund for the purpose of providing money for providing rehabilitation of impaired registered nurses or licensed practical nurses under this article. The account shall be administered by the Indiana professional licensing agency.

(b) Expenses of administering the account shall be paid from money in the account. The account consists of the following:

(1) Funds collected for the rehabilitation of impaired registered nurses and impaired licensed practical nurses under ~~section~~ **sections 11(e), 12(d), and** 16.1(d) of this chapter.

(2) Funds collected under section 31(c)(2) of this chapter.

~~(3) Funds collected for the rehabilitation of impaired registered nurses and impaired licensed practical nurses under IC 25-23.2-3-5 (repealed).~~

~~(4)~~ **(3)** Fines collected from registered nurses or licensed practical nurses under IC 25-1-9-9(a)(6).

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(d) Money in the account is appropriated to the board for the purpose stated in subsection (a).

SECTION 34. IC 25-23.3 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 23.3. INTERSTATE NURSE LICENSURE COMPACT

Chapter 1. Purpose

Sec. 1. It is the purpose of this compact to allow qualified nurses who are licensed in a compact state to practice nursing in another compact state and to reduce redundant licensing requirements of nurses who practice in multiple states.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adverse action" means a home or remote state action.

Sec. 3. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

Sec. 4. "Board" has the meaning set forth in IC 25-23-1-1.

Sec. 5. "Coordinated licensure information system" means an integrated process:

(1) for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws; and

(2) administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

Sec. 6. "Home state" means the party state that is a nurse's primary state of residence.

Sec. 7. "Home state action" means any administrative, civil,

equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board, including an action against an individual's license, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

Sec. 8. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

Sec. 9. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in that party state. All party states have the authority, in accordance with state due process law, to take actions against a nurse's privilege, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

Sec. 10. "Nurse" means a registered nurse or licensed practical/vocational nurse as defined by the state practice laws of each party state.

Sec. 11. "Party state" means any state that has adopted this compact.

Sec. 12. "Remote state" means a party state, other than the home state:

(1) where a patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing not involving a patient, in a party state where the recipient of nursing practice is located.

Sec. 13. "Remote state action" means:

(1) any administrative, civil, equitable, or criminal action permitted by a remote state's laws that are imposed on a nurse by the remote state's licensing board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state; and

(2) cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards of remote states.

Sec. 14. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 15. "State practice laws" means the individual party state's

laws and rules that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Chapter 3. General Provisions and Jurisdiction

Sec. 1. A license to practice registered nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in the party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in the party state. To obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal and all other applicable state laws.

Sec. 2. A party state may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in the state and may take any other actions under applicable state laws necessary to protect the health and safety of the state's citizens. If a party state takes such an action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

Sec. 3. A nurse practicing in a party state must comply with the state practice laws of the state in which a patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but includes all nursing practice as defined by the state practice laws of a party state. The practice of nursing subjects a nurse to the jurisdiction of the nurse licensing board, the courts, and the laws in that party state.

Sec. 4. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if a license is required by state law as a precondition for qualifying for advanced

practice registered nurse authorization.

Sec. 5. Individuals not residing in a party state continue to be able to apply for nurse licensure as provided under the laws of each party state. However, the license granted to these individuals is not recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Chapter 4. Applications for Licensure in a Party State

Sec. 1. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other party state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

Sec. 2. A nurse in a party state may hold licensure in only one (1) party state at a time, issued by the home state.

Sec. 3. A nurse who intends to change primary state of residence may apply for licensure in the new home state before the change. However, a new license may not be issued by a party state until a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

Sec. 4. (a) If a nurse:

(1) changes primary state of residence by moving between two

(2) party states; and

(2) obtains a license from the new home state;

the license from the former home state is no longer valid.

(b) If a nurse:

(1) changes primary state of residence by moving from a nonparty state to a party state; and

(2) obtains a license from the new home state;

the individual state license issued by the nonparty state is not affected and remains in force if provided by the laws of the nonparty state.

(c) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without multistate licensure privilege to practice in other party states.

Chapter 5. Adverse Actions

Sec. 1. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any disciplinary actions taken by the licensing entity or complaints filed by the attorney general, including the factual and legal basis for such actions, if known. The licensing board of a remote state shall promptly report any disciplinary actions taken by the licensing entity or complaints filed by the remote state's attorney general. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

Sec. 2. The licensing board of a party state has authority to complete any pending investigation for a nurse who changes primary state of residence during the course of the investigation. The licensing board also has authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

Sec. 3. A remote state may take adverse action affecting the multistate licensure privilege to practice within the remote state. However, only the home state has authority to impose adverse action against the license issued by the home state.

Sec. 4. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

Sec. 5. The home state may take adverse action based on the factual findings of a remote state, so long as each state follows its own procedures for imposing such adverse action.

Sec. 6. This compact does not override a party state's decision that participation in an alternative program may be used instead of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

Chapter 6. Additional Authority Invested in Party State Nurse Licensing Boards

Sec. 1. Notwithstanding any other powers, a party state nurse licensing board may do the following:

(1) If otherwise permitted by state law, recover from a nurse the costs of investigations and disposition of cases resulting from any adverse action taken against the nurse.

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses and the production of evidence from another party state shall be enforced in the latter state by a court with jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and evidence are located.

(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in the state.

(4) Adopt uniform rules as provided for in IC 25-23.3-8-3.

Chapter 7. Coordinated Licensure Information System

Sec. 1. All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system must include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

Sec. 2. All party states' licensing boards shall promptly report actions against multistate licensure privileges, disciplinary actions taken by the licensing entity or complaints filed by the remote state's attorney general, denials of applications, and the reasons for such denials to the coordinated licensure information system.

Sec. 3. All party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

Sec. 4. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure

information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

Sec. 5. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

Sec. 6. The compact administrators, acting jointly and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

Chapter 8. Compact Administration and Interchange of Information

Sec. 1. The head of the nurse licensing board of each party state, or that person's designee, shall be the administrator of this compact for that person's state. For purposes of this article, the executive director of the Indiana professional licensing agency or the executive director's designee shall be the administrator of this compact.

Sec. 2. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents, including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information, to facilitate the administration of this compact.

Sec. 3. Compact administrators may develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by a board under IC 25-23.3-6-1.

Chapter 9. Immunity

Sec. 1. Neither a party state nor an officer, employee, or agent of a party state's nurse licensing board who acts in accordance with this compact is liable on account of any act or omission in good faith while engaged in the performance of duties under this compact. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

Chapter 10. Entry Into Force, Withdrawal, and Amendment

Sec. 1. This compact becomes effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact.

Sec. 2. No withdrawal affects the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring before the withdrawal.

Sec. 3. This compact shall not be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with this compact.

Sec. 4. This compact may be amended by the party states. No amendment to this compact becomes effective and binding upon the party states unless and until it is enacted into the laws of all party states.

Chapter 11. Construction and Severability

Sec. 1. This compact shall be liberally construed to effectuate its purposes. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or if the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance are not affected thereby. If this compact is held contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to a severable matter.

Sec. 2. If party states find a need for settling disputes arising under this compact:

(1) the party states may submit the issues in dispute to an arbitration panel comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in each remote state involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) the decision of a majority of the arbitrators is final and binding.

Sec. 3. (a) Notwithstanding any other law, this article does not

take effect until July 1, 2009.

(b) This article expires July 1, 2012.

SECTION 35. IC 25-23.5-3-1.5, AS ADDED BY P.L.197-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) Except as provided in subsection (b), an occupational therapist may not provide occupational therapy services to a person until the person has been referred to the occupational therapist by **one (1) of the following:**

(1) A physician licensed under IC 25-22.5.

(2) A podiatrist licensed under IC 25-29.

(3) An advanced practice nurse licensed under IC 25-23.

(4) A psychologist licensed under IC 25-33. ~~or~~

(5) A chiropractor licensed under IC 25-10.

(6) An optometrist licensed under IC 25-24.

(b) An occupational therapist may provide the following services without a referral from a physician licensed under IC 25-22.5, a podiatrist licensed under IC 25-29, an advanced practice nurse licensed under IC 25-23, a psychologist licensed under IC 25-33, ~~or~~ a chiropractor licensed under IC 25-10, **or an optometrist licensed under IC 25-24:**

(1) Ergonomic or home assessment.

(2) Injury or illness prevention education and wellness services.

(3) Occupational therapy activities provided in an educational setting.

(4) Occupational therapy activities that the board determines, after reviewing the recommendations of the committee, are appropriate to be conducted in a community based environment.

SECTION 36. IC 25-23.6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** An individual may not:

(1) profess to be a licensed marriage and family therapist;

(2) use the title:

(A) "licensed marriage and family therapist";

(B) "marriage and family therapist"; or

(C) "family therapist";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed marriage and family therapist; or

(4) practice marriage and family therapy for compensation;

unless the individual is licensed under ~~this article,~~ IC 25-22.5, **IC 25-23.6-8-1,** or IC 25-33.

(b) An individual may not:

(1) profess to be a licensed marriage and family therapist associate;

(2) use the title:

(A) "licensed marriage and family therapist associate";

(B) "marriage and family therapist associate"; or

(C) "family therapist associate";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed marriage and family therapist associate; or

(4) practice marriage and family therapy for compensation;

unless the individual is licensed under IC 25-22.5, IC 25-23.6-8-1.5, or IC 25-33.

(c) Subsections (a)(4) and (b)(4) do not apply to a person who is described in section 2(a) of this chapter.

SECTION 37. IC 25-23.6-3-2, AS AMENDED BY P.L.2-2007, SECTION 330, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) This article may not be construed to limit the marriage and family therapy services performed by a person who does not use a title specified in this article and who is one (1) of the following:

(1) A licensed or certified health care professional acting within the scope of the person's license or certificate.

(2) A student, an intern, or a trainee pursuing a course of study in medicine or psychology or a course of study to gain licensure under this article in an accredited eligible postsecondary educational institution or training institution ~~or is a graduate accumulating experience required for licensure~~ if:

(A) the activities are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision; and

(B) the student ~~or graduate~~ uses a title that contains the term "intern" or "trainee".

(3) Not a resident of Indiana if the person performed services in Indiana for not more than five (5) days in any one (1) month and

not more than fifteen (15) days in any one (1) calendar year and the person is authorized to perform such services under the laws of the state or country in which the person resides.

(4) A rabbi, priest, Christian Science practitioner, minister, or other member of the clergy.

(5) An employee of or a volunteer for a nonprofit corporation or an organization performing charitable, religious, or educational functions, providing pastoral counseling or other assistance.

(6) A person who provides school counseling or a person who is certified by a state or national organization that is recognized by the Indiana division of mental health and addiction and who provides counseling in the areas of alcohol or drug abuse addictions.

(b) Nothing in this section prohibits a person referred to in subsection (a) from qualifying for licensure under this article.

SECTION 38. IC 25-23.6-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** An individual who is licensed as a marriage and family therapist **under IC 25-23.6-8-1** shall:

(1) display the license or a clear copy of the license at each location where the marriage and family therapist regularly practices; and

(2) include the words "licensed marriage and family therapist" or the letters "LMFT" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

(b) An individual who is licensed as a marriage and family therapist associate under IC 25-23.6-8-1.5 shall:

(1) display the license or a clear copy of the license at each location where the marriage and family therapist associate regularly practices; and

(2) include the words "licensed marriage and family therapist associate" or the letters "LMFTA" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

SECTION 39. IC 25-23.6-8-1, AS AMENDED BY P.L.2-2007, SECTION 337, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. An individual who applies for a

license as a marriage and family therapist must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board from an eligible postsecondary educational institution that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or (2.1)(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual has met the clinical experience requirements under section 2.7 of this chapter.

(3) Furnish satisfactory evidence to the board that the individual:

(A) holds a marriage and family therapist associate license, in good standing, issued under section 5 of this chapter; or

(B) is licensed or certified to practice as a marriage and family therapist in another state and is otherwise qualified under this chapter.

~~(2)~~ **(4)** Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

~~(3)~~ **(5)** Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist without endangering the public.

~~(4) Pass an examination provided by the board.~~

~~(5)~~ **(6)** Pay the fee established by the board.

SECTION 40. IC 25-23.6-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. An individual who applies for a license as a marriage and family therapist associate must meet the following requirements:**

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board from an institution of higher education that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or 2.1(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist associate without endangering the public.

(4) Pay the fee established by the board.

(5) Pass an examination provided by the board.

SECTION 41. IC 25-23.6-8-2.1, AS AMENDED BY P.L.2-2007, SECTION 338, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.1. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** must have received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board, from an eligible postsecondary educational institution that meets the following requirements:

(1) If the institution was located in the United States or a territory of the United States, at the time of the applicant's graduation the institution was accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) If the institution was located in Canada, at the time of the

applicant's graduation the institution was a member in good standing with the Association of Universities and Colleges of Canada.

(3) If the institution was located in a foreign country other than Canada, at the time of the applicant's graduation the institution:

(A) was recognized by the government of the country where the school was located as a program to train in the practice of marriage and family therapy or psychotherapy; and

(B) maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(b) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** who has a master's or doctoral degree from a program that did not emphasize marriage and family therapy may complete the course work requirement from an institution that is:

(1) accredited by the Commission on Accreditation for Marriage and Family Therapy Education; and

(2) recognized by the United States Department of Education.

SECTION 42. IC 25-23.6-8-2.5, AS AMENDED BY P.L.2-2007, SECTION 339, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** must complete the following educational requirements:

(1) Except as provided in subsection (b), complete twenty-seven (27) semester hours or forty-one (41) quarter hours of graduate course work that must include graduate level course credits with material in at least the following content areas:

(A) Theoretical foundations of marriage and family therapy.

(B) Major models of marriage and family therapy.

(C) Individual development.

(D) Family development and family relationships.

(E) Clinical problems.

(F) Collaboration with other disciplines.

(G) Sexuality.

(H) Gender and sexual orientation.

(I) Issues of ethnicity, race, socioeconomic status, and culture.

(J) Therapy techniques.

(K) Behavioral research that focuses on the interpretation and application of research data as it applies to clinical practice.

The content areas may be combined into any one (1) graduate level course, if the applicant can prove that the course work was devoted to each content area.

(2) Not less than one (1) graduate level course of two (2) semester hours or three (3) quarter hours in the following areas:

(A) Legal, ethical, and professional standards issues in the practice of marriage and family therapy or an equivalent course approved by the board.

(B) Appraisal and assessment for individual or interpersonal disorder or dysfunction.

(3) At least one (1) supervised clinical practicum, internship, or field experience in a marriage and family counseling setting that meets the following requirements:

(A) The applicant provided five hundred (500) face to face client contact hours of marriage and family therapy services under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or a qualified supervisor approved by the board.

(B) The applicant received one hundred (100) hours of supervision from a licensed marriage and family therapist who has at least five (5) years experience as a qualified supervisor.

The requirements under ~~subdivisions~~ **clauses** (A) and (B) may be met by a supervised practice experience that took place away from an institution of higher education but that is certified by an official of the eligible postsecondary educational institution as being equivalent to a graduate level practicum or internship program at an institution accredited by an accrediting agency approved by the United States Department of Education Commission on Recognition of Postsecondary Education, the Association of Universities and Colleges of Canada, or the Commission on Accreditation for Marriage and Family Therapy Education.

(b) The following graduate work may not be used to satisfy the content area requirements under subsection (a):

(1) Thesis or dissertation work.

(2) Practicums, internships, or fieldwork.

SECTION 43. IC 25-23.6-8-2.7, AS AMENDED BY P.L.197-2007, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.7. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter must have at least two (2) years of clinical experience, during which at least fifty percent (50%) of the applicant's clients were receiving marriage and family therapy services. The applicant's clinical experience must include one thousand (1,000) hours of post degree clinical experience and two hundred (200) hours of post degree clinical supervision, of which one hundred (100) hours must be individual supervision, under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or an equivalent supervisor, as determined by the board.

(b) ~~Within the two (2) years~~ **Before an individual obtains any post degree clinical experience, the individual must be licensed as a marriage and family therapist associate under this chapter. When obtaining the clinical experience** required under subsection (a), the applicant must provide direct individual, group, and family therapy and counseling to the following categories of cases:

(1) Unmarried couples.

(2) Married couples.

(3) Separating or divorcing couples.

(4) Family groups, including children.

(c) A doctoral internship may be applied toward the supervised work experience requirement.

(d) Except as provided in subsection (e), the experience requirement may be met by work performed at or away from the premises of the supervising marriage and family therapist.

(e) The work requirement may not be performed away from the supervising marriage and family therapist's premises if:

(1) the work is the independent private practice of marriage and family therapy; and

(2) the work is not performed at a place that has the supervision of a licensed marriage and family therapist or an equivalent

supervisor, as determined by the board.

SECTION 44. IC 25-23.6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. An individual who satisfies the requirements of ~~sections 1 and 2~~ **section 1.5(1) through 1.5(4)** of this chapter may take the examination provided by the board.

SECTION 45. IC 25-23.6-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The board shall issue a **marriage and family therapist license or marriage and family therapist associate** license, **as appropriate,** to an individual who:

(1) achieves a passing score, as determined by the board, on the examination provided under this chapter; and

(2) is otherwise qualified under this article.

SECTION 46. IC 25-23.6-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A **marriage and family therapist** license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.

(b) An individual may renew a **marriage and family therapist** license by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing not less than fifteen (15) hours of continuing education each licensure year.

(c) If an individual fails to pay a renewal on or before the expiration date of a license, the license becomes invalid.

SECTION 47. IC 25-23.6-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) A marriage and family therapist associate license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.**

(b) An individual may renew a marriage and family therapist associate license two (2) times by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing at least fifteen (15) hours of continuing education each licensure year.

(c) The board may renew a marriage and family therapist associate license for additional periods based on circumstances

determined by the board.

(d) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid.

SECTION 48. IC 25-23.6-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The board may reinstate an invalid **marriage and family therapist** license **issued under section 5 of this chapter** up to three (3) years after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a **marriage and family therapist** license expired, the individual holding the license may renew the license by satisfying the requirements for renewal established by the board and meeting the requirements under IC 25-1-8-6.

(c) The board may reinstate an invalid marriage and family therapist associate license issued under section 5 of this chapter up to one (1) year after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6. An associate license that has been expired for more than one (1) year may not be reinstated under IC 25-1-8-6.

SECTION 49. IC 25-23.6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) An individual who is licensed **as a marriage and family therapist** under this ~~article~~ **chapter** shall notify the board in writing when the individual retires from practice.

(b) Upon receipt of the notice, the board shall:

(1) record the fact the individual is retired; and

(2) release the individual from further payment of renewal fees and continuing education requirements.

SECTION 50. IC 25-23.6-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. **(a)** An individual who applies for a **marriage and family therapist** license under **section 1 of** this ~~article~~ **chapter** may be exempted by the board from the examination requirement under this chapter if the individual:

(1) complies with subsection (b); and

~~(1)~~ **(2)** is licensed or certified to practice as a marriage and family therapist in another state or ~~(2)~~ has engaged in the practice of marriage and family therapy for at least three (3) of the previous

five (5) years.

(b) An individual may be exempted under subsection (a) if the individual:

~~(3)~~ **(1)** has passed a licensing examination substantially equivalent to the licensing examination required under this article;

~~(4)~~ **(2)** has passed an examination pertaining to the marriage and family therapy laws and rules of this state; and

~~(5)~~ **(3)** has not committed any act or is not under investigation for any act that constitutes a violation of this article;

and is otherwise qualified under ~~sections~~ **section** 1 ~~and 2~~ of this chapter and pays an additional fee.

SECTION 51. IC 34-30-2-99.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 99.5. IC 25-23.3-9-1 (Concerning acts and omissions under the interstate nurse licensure compact).**

SECTION 52. IC 25-23-1-28 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 53. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) During the 2008 interim, the commission shall:

(1) study domestic violence programs administered by the state; and

(2) recommend the most appropriate state agency to administer domestic violence programs.

(c) This SECTION expires December 31, 2008.

SECTION 54. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 25-23.3, as added by this act, IC 25-23.3 may not be implemented until July 1, 2009.**

(b) The Indiana state board of nursing shall, not later than June 30, 2009, adopt rules under IC 4-22-2 to administer IC 25-23.3, as added by this act.

(c) This SECTION expires July 1, 2009.

SECTION 55. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) Before July 1, 2008, the office shall apply to the United

States Department of Health and Human Services for an amendment to the state Medicaid plan to provide coverage for adults and children for medically necessary umbilical cord transplants and other related procedures under the state Medicaid program (IC 12-15) if the Medicaid recipient's provider receives prior approval for the procedure from the office.

(c) The office may not implement the plan amendment until the office files an affidavit with the governor attesting that the plan amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(d) If the office receives a plan amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2013.

SECTION 56. [EFFECTIVE JULY 1, 2008] **(a) The office of the secretary of family and social services shall adopt the rules required by IC 12-31-1-3(b), as added by this act, in the manner provided in IC 4-22-2-37.1. The office shall immediately begin the adoption of the rules and shall adopt the final rules before March 1, 2009.**

(b) This SECTION expires July 1, 2009.

SECTION 57. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) Not later than October 1, 2008, the state police department shall report to the commission and legislative council in an electronic format under IC 5-14-6 concerning any changes the federal government has made in criminal background check procedures.

(c) This SECTION expires December 31, 2008.

SECTION 58. [EFFECTIVE JULY 1, 2008] **(a) This SECTION applies beginning July 1, 2008, and ending June 30, 2009.**

(b) Notwithstanding any other law and except as provided in

subsection (c), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's limited criminal history under IC 10-13-3.

(c) If a home health agency or personal services agency determines that an employee lived outside Indiana at any time during the two (2) years immediately before the date the individual was hired by the agency, the home health agency or personal services agency shall apply, not more than three (3) business days after the date that the employee begins to provide services in a patient's temporary or permanent residence, for the employee's national criminal history background check from the Indiana central repository for criminal history information under IC 10-13-3-39.

(d) This SECTION expires June 30, 2009.

SECTION 59. [EFFECTIVE UPON PASSAGE] **(a) The social worker, marriage and family therapist, and mental health counselor board established by IC 25-23.6-2-1 shall adopt emergency rules under IC 4-22-2-37.1 to implement the provisions of the marriage and family therapist associate license provisions added to IC 25-23.6 by this act.**

(b) This SECTION expires July 1, 2009.

SECTION 60. **An emergency is declared for this act.**

P.L.135-2008
[H.1179. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 24-1-1-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.1. The attorney general may bring an action on behalf of the state or a political subdivision (as defined in IC 34-6-2-110) for injuries or damages sustained directly or indirectly as a result of a violation of this chapter.**

SECTION 2. IC 24-1-1-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.2. (a) The attorney general may bring an action in a county on behalf of the state or a political subdivision (as defined in IC 34-6-2-110) for injuries or damages sustained directly or indirectly as a result of a violation of this chapter.**

(b) An action brought under this section may be brought, without respect to the amount in controversy, in a circuit or superior court in a county in which the defendant resides or is engaged in business, or in which service may be obtained.

(c) The plaintiff in an action brought under this section is entitled to recover a penalty of threefold the damages awarded in the action, plus reasonable costs and attorney's fees.

SECTION 3. IC 24-1-2-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.1. The attorney general may bring an action on behalf of the state or a political subdivision (as defined in IC 34-6-2-110) for injuries or damages sustained directly or indirectly as a result of a violation of this chapter.**

SECTION 4. IC 24-1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** Any person ~~who shall be~~

~~injured in his~~ **whose** business or property **is injured** by ~~any person or corporation by reason of the doing by any person or persons of anything forbidden or declared to be unlawful by~~ **a violation of** this chapter may ~~sue therefor~~ **bring an action** in the circuit or superior court of any county in which the defendant ~~or defendants or any of them, reside~~ **resides** or ~~are~~ **is** found without respect to the amount in controversy, and ~~shall~~ **is entitled to** recover a penalty of threefold the damages ~~which may be sustained~~ **awarded in the action,** together with the costs of suit, including ~~a~~ reasonable attorney's ~~fee.~~ **fees.**

(b) The attorney general may bring an action under this section on behalf of the state or a political subdivision if the state or political subdivision has been directly or indirectly injured by a violation of this section.

SECTION 5. IC 24-1-3-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. The attorney general may bring an action on behalf of the state or a political subdivision (as defined in IC 34-6-2-110) for injuries or damages sustained directly or indirectly as a result of a:**

(1) contract or combination described in section 1 of this chapter; or

(2) violation of this chapter.

SECTION 6. IC 24-1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** Any person who ~~shall, by any such~~ **has suffered injuries or damages as a result of a** contract or combination ~~as set out~~ **described** in section 1 of this chapter, ~~be injured or damaged in his business thereby, or by reason of anything forbidden or declared by this chapter to be unlawful, may maintain a suit therefor in any~~ **or by any other violation of this chapter, may bring an action in a circuit or superior** court having jurisdiction ~~thereof~~ in the county where the defendant resides or ~~in which he~~ is engaged in business, or in any county where service may be obtained, without respect to the amount in controversy. ~~and the~~ **The** plaintiff in ~~any such~~ **an** action **brought under this section** ~~shall be~~ **is** entitled to recover ~~all his~~ **threefold damages awarded in the action, plus reasonable** costs and ~~a reasonable~~ attorney's ~~fee~~ **fees.** ~~therein.~~

(b) The attorney general may bring an action under this section on behalf of the state or a political subdivision.

SECTION 7. IC 24-1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** Any person ~~or persons or corporations that may be injured or damaged by any such~~ **who has suffered injuries or damages as a result of an** arrangement, contract, agreement, trust, or combination described in section 1 of this chapter may ~~sue for and recover~~ **bring an action** in any court of competent jurisdiction in this state ~~of any person, persons, or corporations operating such trust or combination~~ **to recover** the full consideration or sum paid by ~~him or them~~ **the person** for any goods, wares or merchandise, or article the sale of which is controlled by ~~such~~ **the** combination or trust. **In addition, the person is entitled to recover a penalty of threefold the damages awarded in the action, plus reasonable costs and attorney's fees.**

(b) The attorney general may bring an action under this section on behalf of the state or a political subdivision.

SECTION 8. IC 24-1-4-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. The attorney general may bring an action on behalf of the state or any political subdivision (as defined in IC 34-6-2-110) that has been directly or indirectly injured or damaged by:**

(1) an arrangement, agreement, trust, or combination described in section 1 of this chapter; or

(2) any other violation of this chapter.

SECTION 9. **An emergency is declared for this act.**

P.L.136-2008
[H.1197. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-6-9-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. The division may initiate and maintain an educational program to inform consumers of:**

(1) risks involved in a breach of the security of a system; and

(2) steps that the victim of a security breach should take to prevent and mitigate the damage from the security breach.

SECTION 2. IC 24-4.9-2-2, AS ADDED BY P.L.125-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) "Breach of the security of a system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a person. The term includes the unauthorized acquisition of computerized data that have been transferred to another medium, including paper, microfilm, or a similar medium, even if the transferred data are no longer in a computerized format.

(b) The term does not include the following:

(1) Good faith acquisition of personal information by an employee or agent of the person for lawful purposes of the person, if the personal information is not used or subject to further unauthorized disclosure.

(2) Unauthorized acquisition of a portable electronic device on which personal information is stored, if ~~access to the device~~ **all personal information on the device** is protected by ~~a password that~~ **encryption and the encryption key:**

(A) has not been **compromised or** disclosed; **and**

(B) is not in the possession of or known to the person who,

without authorization, acquired or has access to the portable electronic device.

P.L.137-2008
[H.1204. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-13-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Emergency Alert System Advisory Committee

Sec. 1. As used in this chapter, "committee" refers to the emergency alert system advisory committee established by section 3 of this chapter.

Sec. 2. As used in this chapter, "emergency alert system" refers to the system described in 47 CFR 11.

Sec. 3. The emergency alert system advisory committee is established.

Sec. 4. (a) The committee consists of the following members:

(1) The superintendent or the superintendent's designee. The superintendent or the superintendent's designee is the committee's chair.

(2) The executive director of the department of homeland security or the executive director's designee.

(3) The state health commissioner or the commissioner's designee.

(4) An individual representing the National Weather Service, appointed by the governor.

(5) Two (2) individuals representing television broadcasters in Indiana, appointed by the governor.

(6) Two (2) individuals representing radio broadcasters in Indiana, appointed by the governor.

(7) An individual representing an Indiana newspaper that maintains a twenty-four (24) hour web site, appointed by the governor.

(8) An individual representing a video service provider that provides video service to Indiana consumers, appointed by the governor.

(b) The following apply to a committee member appointed under subsection (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8):

(1) The term of a member begins on one (1) of the following dates, whichever applies, during the year in which the member is appointed:

(A) July 1, if the member is appointed on or before July 1.

(B) The day the member accepts the member's appointment, if the member is appointed after July 1.

(2) The term of a member expires on July 1 of the fourth year after the year the member's term begins.

(3) A member may be reappointed to serve a new term.

Sec. 5. The committee shall do the following:

(1) Develop, update, and monitor the effectiveness of the state emergency alert system plan.

(2) Make recommendations concerning the acquisition of appropriate technology and equipment to make the emergency notification system effective on a timely basis in all parts of Indiana.

(3) Through the department, purchase appropriate technology and equipment to equip local primary relaying stations with monitoring equipment.

(4) Make applications for private, local, state, or federal grants to be used to enhance or improve the emergency alert system.

Sec. 6. The department shall provide administrative and staff support for the committee.

Sec. 7. (a) The committee's expenses shall be paid from appropriations made by the general assembly.

(b) Money received by the committee as a grant or a gift is appropriated for purposes of the grant or the gift.

Sec. 8. (a) Each member of the committee who is not a state

employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. The affirmative votes of a majority of the members on the committee are required for the committee to take action on any measure.

SECTION 2. IC 36-8-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this chapter, "exchange access facility" means the access from a particular service user's premises to a telephone system.

(b) The term includes:

(1) an access line;

(2) a private branch exchange (PBX) trunk; and

(3) a centrex line trunk equivalent;

that is provided by the service supplier. The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier. **In the case of a service user receiving interconnected VoIP service, the term refers to the Internet protocol compatible customer premises equipment that enables the service user to access the interconnected VoIP service.**

(c) The term does not include:

(1) a service supplier owned and operated telephone pay station line;

(2) a wide area telecommunications service (WATS) line;

(3) a foreign exchange (FX) line; or

(4) an incoming only line.

SECTION 3. IC 36-8-16-3.3 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.3. As used in this chapter, "interconnected VoIP service" has the meaning set forth in 47 CFR 9.3.**

SECTION 4. IC 36-8-16-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "PSAP" has the meaning set forth in IC 36-8-16.5-13.**

SECTION 5. IC 36-8-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this chapter, "service supplier" means a person who provides ~~exchange~~ telephone **exchange** service to a service user **in Indiana. The term includes a person who offers interconnected VoIP service to a service user whose registered location (as defined in 47 CFR 9.3) is in Indiana.**

(b) As used in this chapter, "service user" means a person to whom ~~exchange~~ telephone **exchange** service is provided.

SECTION 6. IC 36-8-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An enhanced emergency telephone system fee must be uniform and may not vary according to the type of exchange access facilities used in the unit.

(b) The ordinance imposing a fee under section 5 of this chapter may not impose a fee that exceeds the following:

(1) In a county that has a consolidated city or a county that has at least one (1) second class city, three percent (3%) of the average monthly telephone access line charge in the unit.

(2) In a county that does not have a consolidated city or a second class city, ten percent (10%) of the average monthly telephone access line charge in the unit.

(c) In calculating the average monthly telephone access line charge for purposes of this section, the unit imposing the fee shall include the average monthly charge that:

(1) is imposed by providers of interconnected VoIP service to service users whose registered location (as defined in 47 CFR 9.3) is in the unit; and

(2) represents the charge for the service user's access to the interconnected VoIP service.

SECTION 7. IC 36-8-16-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **Except as provided in section 7.5 of this chapter,** the fiscal body of a unit may adopt an ordinance to change the amount of the enhanced emergency telephone system fee that it imposed under section 5 of this chapter. However, the new fee must comply with the limitations provided in section 6 of this chapter. In addition, the fiscal body of a unit may not adopt more than one (1) ordinance in any calendar year to change the unit's fee.

SECTION 8. IC 36-8-16-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a unit that imposes an enhanced emergency telephone system fee under section 5 of this chapter on March 15, 2008.**

(b) During the period beginning March 15, 2008, and ending on the date on which:

(1) the unit, if the unit is a county; or

(2) the county in which the unit is located, if the unit is a municipality;

complies with IC 36-8-16.5-51(c), the unit may not adopt an ordinance under section 7 of this chapter to increase the amount of the enhanced emergency telephone system fee imposed by the unit under section 5 of this chapter. Upon compliance with IC 36-8-16.5-51(c), the unit that, under the terms of the interlocal agreement required by IC 36-8-16.5-51(e), has the authority to impose a fee under this chapter may adopt an ordinance under section 7 of this chapter to increase the amount of the enhanced emergency telephone system fee as necessary to sufficiently fund any PSAP authorized under IC 36-8-16.5-51(c), subject to the limits set forth in section 6 of this chapter.

SECTION 9. IC 36-8-16-14, AS AMENDED BY P.L.104-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The emergency telephone system fees shall be used only to pay for:

(1) **except as provided in subsection (c),** the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;

(2) the rates associated with the service suppliers' enhanced

emergency telephone system network services;

(3) the personnel expenses of the emergency telephone system;

(4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and

(5) an emergency telephone notification system under IC 36-8-21.

The legislative body of the unit may appropriate money in the fund only for such an expenditure.

(b) This subsection applies to a county that:

(1) imposes a fee under section 5 of this chapter; and

(2) contains a municipality that operates a PSAP (as defined in IC 36-8-16.5-13).

Not later than January 31 of each year, the county fiscal body shall submit to each municipality described in subdivision (2) a report of all expenditures described in subsection (a) paid during the immediately preceding calendar year.

(c) The state board of accounts shall audit the expenditures of emergency telephone system fees made during each of the following calendar years by each unit that imposed a fee under section 5 of this chapter during the following calendar years:

(1) The calendar year ending December 31, 2005.

(2) The calendar year ending December 31, 2006.

(3) The calendar year ending December 31, 2007.

Not later than November 1, 2008, the state board of accounts shall report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the audits conducted under this subsection.

(d) The state board of accounts annually shall audit the expenditures of emergency telephone system fees made during the immediately preceding calendar year by each unit that imposes a fee under section 5 of this chapter. The state board of accounts shall conduct the first audits required by this subsection with respect to expenditures of emergency telephone system fees made during the calendar year ending December 31, 2008.

(e) In conducting the audits required under subsections (c) and (d), the state board of accounts shall determine whether the expenditures made by each unit are in compliance with:

(1) subsection (a); and

(2) section 15 of this chapter, as appropriate.

SECTION 10. IC 36-8-16.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 41. (a) A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

(1) necessary computer hardware, software, and data base equipment;

(2) personnel expense and training;

(3) the provision of wireless enhanced emergency service; or

(4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service.

(b) If:

(1) the board receives a written complaint alleging that a PSAP has used money received under this chapter in a manner that is inconsistent with this chapter; and

(2) a majority of the board votes to conduct an audit of the PSAP;

the board may contract with a third party auditor to audit the PSAP to determine whether the PSAP has used money received under this chapter in a manner consistent with this chapter.

(c) The state board of accounts shall audit the expenditures of wireless emergency enhanced 911 fees made during each of the following calendar years by each PSAP that received distributions under section 39 of this chapter during the following calendar years:

(1) The calendar year ending December 31, 2005.

(2) The calendar year ending December 31, 2006.

(3) The calendar year ending December 31, 2007.

Not later than November 1, 2008, the state board of accounts shall report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the audits conducted under this subsection.

(d) The state board of accounts annually shall audit the expenditures of wireless emergency enhanced 911 fees made during the immediately preceding calendar year by each PSAP that received distributions under section 39 of this chapter during the immediately preceding calendar year. The state board of accounts shall conduct the first audits required by this subsection with

respect to expenditures of wireless emergency enhanced 911 fees made during the calendar year ending December 31, 2008.

(e) In conducting the audits required under subsections (c) and (d), the state board of accounts shall determine whether the expenditures made by each PSAP are in compliance with subsection (a).

SECTION 11. IC 36-8-16.5-51 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 51. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under IC 36-8-15.**

(b) As used in this section, "PSAP operator" means:

(1) a political subdivision; or

(2) an agency;

that operates a PSAP. The term does not include a state educational institution that operates a PSAP or an airport authority established for a county having a consolidated city.

(c) Subject to subsection (d), after December 31, 2014, a county may not contain more than two (2) PSAPs. However, a county may contain one (1) or more PSAPs in addition to the number of PSAPs authorized by this section, as long as any additional PSAPs are operated by:

(1) a state educational institution; or

(2) an airport authority established for a county having a consolidated city.

(d) If, on March 15, 2008, a county does not contain more than one (1) PSAP, not including any PSAP operated by an entity described in subsection (c)(1) or (c)(2), an additional PSAP may not be established or operated in the county on or after March 15, 2008, unless the additional PSAP is established and operated by:

(1) a state educational institution;

(2) in the case of a county having a consolidated city, an airport authority established for the county; or

(3) the municipality having the largest population in the county or an agency of that municipality.

(e) Before January 1, 2015, each PSAP operator in a county that contains more than the number of PSAPs authorized by subsection (c) shall enter into an interlocal agreement under IC 36-1-7 with every other PSAP operator in the county to ensure that the county

does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(f) An interlocal agreement required under subsection (e) may include as parties, in addition to the PSAP operators required to enter into the interlocal agreement under subsection (e), any of the following that seek to be served by a county's authorized PSAPs after December 31, 2014:

(1) Other counties contiguous to the county.

(2) Other political subdivisions in a county contiguous to the county.

(3) Other PSAP operators in a county contiguous to the county.

(g) An interlocal agreement required under subsection (e) must provide for the following:

(1) A plan for the:

(A) consolidation;

(B) reorganization; or

(C) elimination;

of one (1) or more of the county's PSAPs, as necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(2) A plan for funding and staffing the PSAP or PSAPs that will serve:

(A) the county; and

(B) any areas contiguous to the county, if additional parties described in subsection (f) participate in the interlocal agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements, protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators or parties described in subsection (f), if any, determine are necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after

December 31, 2014.

(h) This section may not be construed to require a county to contain a PSAP.

SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.**

(b) As used in this SECTION, "PSAP" has the meaning set forth in IC 36-8-16.5-13.

(c) The committee shall study the appropriate mechanisms for funding both wireline and wireless enhanced emergency telephone systems in Indiana.

(d) In conducting the study required by this SECTION, the committee shall consider the following:

(1) The appropriateness of replacing:

(A) the wireline enhanced emergency telephone system fee that may be imposed under IC 36-8-16; and

(B) the wireless emergency enhanced 911 fee imposed under IC 36-8-16.5;

with a single fee that would apply to all voice communications service, regardless of the technology or protocol used to provide the service.

(2) The appropriate means for collecting and distributing any fees determined to be appropriate under subdivision (1).

(3) The appropriate uses by:

(A) PSAPs;

(B) counties;

(C) municipalities; or

(D) other political subdivisions or agencies;

of any fees determined to be appropriate under subdivision (1).

(4) The appropriate agency, board, commission, or other body to administer the collection, distribution, and investment of any fees determined to be appropriate under subdivision (1).

(5) The audits conducted by the state board of accounts under:

(A) IC 36-8-16-14(e); and

(B) IC 36-8-16.5-41(c);

both as added by this act.

(6) The three (3) most recent audits of the wireless emergency

telephone system fund conducted under IC 36-8-16.5-24. The wireless enhanced 911 advisory board established by IC 36-8-16.5-18 shall make the audits described in this subdivision available to the committee not later than September 1, 2008.

(7) Any other issues the committee determines to be appropriate in considering the mechanisms for funding wireline and wireless enhanced emergency telephone systems in Indiana.

(e) The committee shall prepare a report on the committee's recommendations, if any, concerning the issues described in subsection (d) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2008.

(f) This SECTION expires January 1, 2009.

SECTION 13. **An emergency is declared for this act.**

P.L.138-2008
[H.1219. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-8.1-8-8.7, AS ADDED BY P.L.226-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: Sec. 8.7. (a) The department shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the department on all individuals:

(1) who hold one (1) or more accounts with the financial institution; and

(2) upon whom a levy may be issued by the department or a county treasurer.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify individuals by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) ~~available~~ **accessible** to the department or its agents for use only in tax judgment and levy administration.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either:

(i) the Social Security number; or

(ii) tax identification number;

of individuals identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual against whom a levy may be issued by the department or a county treasurer, the department or its agents shall provide a notice of the match, in compliance with section 4 of this chapter, if action is to be initiated to levy or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the individual has an interest in any debts owed to the financial institution that existed before:

(A) the state's levy; and

(B) notification to the financial institution of the levy.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in levy collection activities.

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the department; or

(3) any other action taken in good faith to comply with this section.

(j) A person or an entity that is acting on behalf of the department is not liable for any action taken in good faith to collect the state's levy under this section unless:

(1) the action is contrary to the department's direction to the person or entity; or

(2) for information provided under this section, the person or entity acts with:

(A) deliberate ignorance of the truth or falsity of the information; or

(B) reckless disregard for the truth or falsity of the information.

~~(j)~~ **(k)** The department or its agents shall pay a financial institution performing the data match required by this section a reasonable fee, as determined by the department, of at least five dollars ($5) for each levy issued to the financial institution.

~~(k)~~ **(l)** This section does not prevent the department or its agents from encumbering an obligor's account with a financial institution by any other remedy available under the law.

SECTION 2. IC 22-4-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: Sec. 1. (a)

"Deductible income" wherever used in this article, means income deductible from the weekly benefit amount of an individual in any week, and shall include, but shall not be limited to:

(1) remuneration for services from employing units, whether or not such remuneration is subject to contribution under this article, except as provided in subsection (c);

(2) dismissal pay;

(3) vacation pay;

(4) pay for idle time;

(5) holiday pay;

(6) sick pay;

(7) traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual;

(8) net earnings from self-employment;

(9) payments in lieu of compensation for services;

(10) awards by the national labor relations board of additional pay, back pay, or for loss of employment, or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board; ~~or~~

(11) payments made to an individual by an employing unit pursuant to the terms of the Fair Labor Standards Act (Federal Wage and Hour Law, 29 U.S.C. 201 et seq.);

(12) for a week in which a payment is actually received by an individual, payments made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure; or

(13) except as provided in subsection (c)(2), the part of a payment made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure if that part is attributable to a week and the week:

(A) occurs after an individual receives the payment; and

(B) was used under the terms of a written agreement to compute the payment.

(b) Deductible income shall not include the first three dollars ($3), or twenty percent (20%) of the claimant's weekly benefit amount rounded to the next lowest dollar, whichever is the larger, of remuneration paid or payable to an individual with respect to any week

by other than ~~his~~ **the individual's** base period employer or employers.

(c) For the purpose of deductible income only, remuneration for services from employing units does not include:

(1) bonuses, gifts, or prizes awarded to an employee by an employing unit; **or**

(2) compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement.

(d) Deductible income does not include a supplemental unemployment insurance benefit made under a valid negotiated contract or agreement.

SECTION 3. IC 22-4-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: Sec. 1. **(a) Except as provided in IC 22-4-5-1 or subsection (b) or (c),** an unemployed individual shall be eligible to receive benefits with respect to any week only if ~~He~~ **the individual** has made a claim for benefits in accordance with ~~the provisions of IC 1971, 22-4-17-1 hereof. Provided, however,~~ ~~That~~ **IC 22-4-17.**

(b) A person ~~accepting~~ **who:**

(1) accepts a layoff under an inverse seniority clause of a validly negotiated contract; ~~be~~ **and**

(2) otherwise meets the eligibility requirements established by this article;

is entitled to ~~all~~ **receive** benefits **in the same amounts, under the same terms, and subject to the same conditions** as any other unemployed person. ~~under the terms of this article. Provided, That he meets the other requirements of this article.~~

(c) This subsection does not apply to a person who elects to retire in connection with a layoff or plant closure and receive pension, retirement, or annuity payments. Except as provided in IC 22-4-5-1, a person who:

(1) accepts an offer of payment or other compensation offered by an employer to avert or lessen the effect of a layoff or plant closure; and

(2) otherwise meets the eligibility requirements established by this article;

is entitled to receive benefits in the same amounts, under the same

terms, and subject to the same conditions as any other unemployed person.

SECTION 4. IC 22-4-25-1, AS AMENDED BY P.L.2-2007, SECTION 293, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. ~~No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article.~~ The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the

board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

~~(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.~~

~~(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the~~

~~state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.~~

~~(d)~~ **(b)** Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

~~(e)~~ **(c)** Subject to the approval of the board **and the availability of funds, on July 1, 2008, and each subsequent July 1,** the commissioner ~~may use not more than five~~ **shall release:**

(1) one million dollars ~~($5,000,000) during a program year for~~ **($1,000,000)** to **the state educational institution established under IC 21-25-2-1 for** training provided ~~by Ivy Tech Community College~~ to participants in ~~joint labor and management~~ apprenticeship programs approved by the United States Department of ~~Labor's~~ **Labor,** Bureau of Apprenticeship **and** Training; ~~Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.~~

(2) four million dollars ($4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training; and

(3) two hundred fifty thousand dollars ($250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).

Each state educational institution described in this subsection is entitled to keep ten percent (10%) of the funds released under this subsection for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under this subsection not used by the state educational institutions under this subsection shall be returned to the special employment

and training services fund.

SECTION 5. IC 22-4-29-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: **Sec. 14. (a) The department may operate a data match system with each financial institution doing business in Indiana.**

(b) If the department operates a data match system, each financial institution doing business in Indiana shall provide information to the department on all employers:

(1) that hold one (1) or more accounts with the financial institution; and

(2) that are subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify employers by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) federal tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) accessible to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include:

(A) the name;

(B) the address of record; and

(C) either:

(i) the Social Security number; or

(ii) the federal tax identification number;

of the employers identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an employer that

holds an account with a financial institution and an employer that is subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs, the department or its agents shall provide a notice of the match to the financial institution if action is to be initiated to issue a warrant to levy upon or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the employer has an interest any debts owed to the financial institution that existed before:

(A) the department's warrant; and

(B) notification to the financial institution of the department's warrant.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the department; or

(3) any other action taken in good faith to comply with this section.

(j) A person or an entity that is acting on behalf of the department is not liable for any action taken under this section in good faith to collect unpaid final assessments described in subsection (b)(2) unless:

(1) the action is contrary to the department's direction to the person or entity; or

(2) for information provided under this section, the person or entity acts with:

(A) deliberate ignorance of the truth or falsity of the information; or

(B) reckless disregard for the truth or falsity of the information.

(k) The department or its agents shall pay a financial institution performing the data match under this section a reasonable fee, as determined by the department, of at least five dollars ($5) for each warrant issued to the financial institution.

(l) This section does not prevent the department or its agents from encumbering an employer's account with a financial institution by any other remedy available under the law.

(m) An:

(1) officer or employee of the department; or

(2) officer or employee of a person or entity that is acting on behalf of the department;

who knowingly or intentionally discloses for a purpose other than the collection of unpaid final assessments described in subsection (b)(2) information provided by a financial institution that is confidential under this section commits a Class A misdemeanor.

SECTION 6. IC 22-4-31-6, AS AMENDED BY P.L.108-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the department. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through ~~IC 22-4-29-12~~ **IC 22-4-29-14** and is to be brought only in such cases as the department may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

SECTION 7. IC 31-25-4-31, AS AMENDED BY P.L.103-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

(1) hold one (1) or more accounts with the financial institution; and

(2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

(1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

(A) name; and

(B) either Social Security number or tax identification number; or

(2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution. **The reports submitted under this subdivision must be accessible to:**

(A) the department of state revenue established by IC 6-8.1-2-1 or its agents for use only in tax judgment and levy administration described in IC 6-8.1-8-8.7(b)(2); or

(B) the department of workforce development established by IC 22-4.1-2-1 or its agents for use only in the collection of unpaid final assessments described in IC 22-4-29-14(b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

(1) individual; and

(2) financial institution holding the account.

(f) The notice under section (e) must inform the individual that:

(1) the individual's account in a financial institution is subject to a child support lien; and

(2) the individual may file an appeal with the bureau within twenty (20) days after the date the notice was issued.

(g) The bureau shall hold a hearing under 470 IAC 1-4. The department's final action following a hearing held under this subsection is subject to judicial review as provided in 470 IAC 1-4.

(h) The state's lien on assets under this section is subordinate to any prior lien perfected by:

(1) a financial institution; or

(2) another legitimate lien holder.

(i) A lien issued under this section remains in effect until the earliest of:

(1) one hundred twenty (120) days after issuance;

(2) the date the asset on which the lien is issued is surrendered; or

(3) the date the lien is released by an action of the bureau.

(j) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the noncustodial parent has an interest in any debts owed to the financial institution that existed before:

(A) the state's lien; and

(B) notification to the financial institution of the child support delinquency.

(k) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is

blocked or encumbered.

(l) All information provided by a financial institution under this section is confidential and is available only to the bureau or its agents for use only in child support enforcement activities.

(m) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the bureau, **the department of state revenue established by IC 6-8.1-2-1, or the department of workforce development established by IC 22-4.1-2-1;**

(2) blocking or surrendering any of an individual's assets in response to a lien imposed by:

(A) the bureau under this section; or

(B) a person or entity acting on behalf of the bureau; or

(3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 8. IC 34-30-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: **Sec. 16.8. IC 6-8.1-8-8.7 (Concerning actions taken to collect tax judgments and levies).**

SECTION 9. IC 34-30-2-86.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)]: **Sec. 86.7. IC 22-4-29-14 (Concerning actions taken to collect unemployment insurance assessments).**

SECTION 10. [EFFECTIVE MARCH 15, 2008 (RETROACTIVE)] **IC 22-4-5-1 and IC 22-4-14-1, both as amended by this act, apply to initial claims for unemployment filed for weeks that begin after March 14, 2008.**

SECTION 11. **An emergency is declared for this act.**

P.L.139-2008
[H.1220. Approved March 24, 2008.]

AN ACT concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall:**

(1) study state and local funding alternatives for the South Shore West Lake extension; and

(2) report the commission's findings and recommendations to the legislative council before November 1, 2008.

The report under subdivision (2) must be in an electronic format under IC 5-14-6.

(b) This SECTION expires January 1, 2009.

SECTION 2. **An emergency is declared for this act.**

P.L.140-2008
[H.1246. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-20-36 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 36. Indiana Concurrent Enrollment Partnership

Sec. 1. As used in this chapter, "concurrent enrollment partnership" refers to the Indiana concurrent enrollment partnership established by section 2 of this chapter.

Sec. 2. (a) The Indiana concurrent enrollment partnership is established to foster innovation and collaboration among state educational institutions and school corporations. The partnership shall:

(1) organize the concurrent enrollment partnership;

(2) establish unified rigorous academic standards and assessment requirements and share best practices that comply with appropriate national accreditation standards for concurrent enrollment programs under IC 21-43-5;

(3) coordinate outreach and recruitment of Indiana students and teachers to participate in concurrent enrollment programs;

(4) develop a plan to expand the dual enrollment program to every high school in Indiana as required under IC 20-30-10-4 by the 2010-2011 school year;

(5) before December 1, 2008, develop a fiscal analysis and make recommendations to the department, the budget committee, and the general assembly to make two (2) dual enrollment courses available without tuition and fees or at reduced tuition and fees to students in grades 11 and 12 beginning with the 2010-2011 school year;

(6) develop and submit an annual report on the programs listed under IC 21-43-5-4(a) to the department of education and the commission for higher education before July 1 of each year; and

(7) offer recommendations on concurrent enrollment matters as requested by the state board and the commission for higher education.

(b) The report required under subsection (a)(6) must include the following information:

(1) An assessment of the academic standards required by the programs.

(2) Student performance under the programs.

(3) College attainment for students enrolled in the programs.

(4) Program costs.

(5) Student demand for the programs.

(6) Demographic information for students in the programs.

(7) The cost of, access to, and ease of transfer of courses in the programs.

Sec. 3. Membership in the concurrent enrollment partnership must include the following:

(1) Concurrent enrollment directors from each state educational institution that participates in the dual enrollment partnership.

(2) An individual appointed by the state superintendent.

(3) An individual appointed by the commission for higher education.

(4) A public school superintendent appointed by the state superintendent.

(5) A representative of the Indiana Non-Public Education Association appointed by the state superintendent.

(6) A school board member appointed by the state superintendent.

(7) A representative of the Independent Colleges of Indiana.

(8) A high school teacher participating in a concurrent enrollment program appointed by the state superintendent.

(9) A high school guidance counselor appointed by the state superintendent.

(10) An individual representing the Center for Excellency in Leadership of Learning appointed by the state superintendent.

Sec. 4. (a) The chair of the concurrent enrollment partnership shall be elected by a majority of all dual enrollment partnership members at the initial meeting of the partnership.

(b) The chair shall call the meetings of the partnership.

Sec. 5. The commission for higher education shall provide support for the concurrent enrollment partnership.

Sec. 6. This chapter expires July 1, 2009.

SECTION 2. IC 20-30-4-1, AS ADDED BY P.L.1-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "student" refers to a student who is enrolled in a school corporation in at least ~~grade 9.~~ **grade 6.**

SECTION 3. IC 20-30-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) In grade 6, a student and the student's parent**

shall develop an initial graduation plan. The plan must include the following:

(1) A statement of intent to graduate from high school.

(2) An acknowledgment of the importance of:

(A) good citizenship;

(B) school attendance; and

(C) diligent study habits.

(b) The plan must become part of the student's permanent school record.

SECTION 4. IC 20-30-4-2, AS AMENDED BY P.L.2-2007, SECTION 220, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. In consultation with the student's guidance counselor, after seeking consultation with each student's parents, and not later than the date on which the student completes grade 9, each student shall **further** develop ~~a career~~ **the graduation** plan ~~in which the student does~~ **developed in grade 6 under section 1.5 of this chapter to also include** the following:

(1) ~~Indicates~~ The subject and skill areas of interest to the student.

(2) ~~Designs~~ A program of study under the college/technology preparation curriculum adopted by the state board under IC 20-30-10-2 for grades 10, 11, and 12 that meets the interests and aptitude of the student.

(3) ~~Ensures~~ **Assurances** that, upon satisfactory fulfillment of the plan, the student:

(A) is entitled to graduate; and

(B) will have taken at least the minimum variety and number of courses necessary to gain admittance to a state educational institution.

(4) An indication of assessments (other than ISTEP and the graduation examination) that the student plans to take voluntarily during grade 10 through grade 12, and which may include any of the following:

(A) The SAT Reasoning Test.

(B) The ACT test.

(C) Advanced placement exams.

(D) College readiness exams approved by the department.

(E) Workforce readiness exams approved by the department of workforce development established under

IC 22-4.1-2.

SECTION 5. IC 20-30-4-4, AS ADDED BY P.L.1-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A ~~career~~ **graduation** plan may be modified after initial development. However, the modifications may not interfere with the assurances described in section 2(3) of this chapter.

SECTION 6. IC 20-30-4-5, AS ADDED BY P.L.1-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. This chapter may not be construed to prevent a student who chooses a particular curriculum under IC 20-30-12 or IC 20-30-10 from including within the student's ~~career~~ **graduation** plan individual courses or programs that:

(1) are not included within the student's chosen curriculum; and

(2) the student is otherwise eligible to take.

SECTION 7. IC 20-30-4-6, AS ADDED BY P.L.185-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A student's guidance counselor shall, in consultation with the student and the student's parent, review annually a student's ~~career~~ **graduation** plan **that was developed in grade 9 under section 2 of this chapter** to determine if ~~a~~ **the** student is progressing toward fulfillment of the ~~career~~ **graduation** plan.

(b) If a student is not progressing toward fulfillment of the ~~career~~ **graduation** plan, the school counselor shall provide counseling services for the purpose of advising the student of credit recovery options and services available to help the student progress toward graduation.

SECTION 8. IC 20-33-2-13, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A school corporation shall record or include the following information in the official high school transcript for a student in high school:

(1) Attendance records.

(2) The student's latest ISTEP program test results under IC 20-32-5.

(3) Any secondary level and postsecondary level certificates of achievement earned by the student.

(4) Immunization information from the immunization record the student's school keeps under IC 20-34-4-1.

(5) Any dual credit courses taken that are included in the core transfer library under IC 21-42-5-4.

(b) A school corporation may include information on a student's high school transcript that is in addition to the requirements of subsection (a).

SECTION 9. IC 21-14-8-1, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** A state educational institution shall waive tuition for a student who is:

(1) eligible for free or reduced lunch in high school;

(2) accepted into the double up for college program under IC 21-43-5; and

(3) accepted for admission to the state educational institution.

(b) The high school a student attends shall certify the student's income to a state educational institution to determine the student's eligibility for a tuition and fee waiver under this section.

(c) A high school may certify a student's eligibility for a tuition and fee waiver under this section based upon any of the following types of information:

(1) A free or reduced lunch application form.

(2) A state or federal income tax return.

(3) A certification from the office of the secretary of family and social services.

(4) Any state agency certification based upon income records.

SECTION 10. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "committee" refers to the interim study committee on education matters.**

(b) There is established the interim study committee on education matters. The committee shall review and make recommendations to the general assembly, the state board of education, and the department of education on the following:

(1) The availability of virtual learning for K-12 students in Indiana.

(2) How virtual learning services are being provided by other states, including through state departments of education.

(3) Standards of quality and alignment with Indiana's content standards recommended for virtual learning.

(4) Accreditation standards and pricing for virtual learning

opportunities.

(5) Funding for students enrolled in full-time or part-time virtual learning programs outside their home school corporation.

(6) Other issues that may be determined as necessary to make recommendations by the interim study committee.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires November 1, 2008.

P.L.141-2008

[H.1249. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning higher education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 21-14-1-4, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. "Eligible applicant":

(1) for purposes of IC 21-14-4, refers to a person who is eligible for an educational costs exemption for children of veterans under IC 21-14-4;

(2) for purposes of IC 21-14-6, refers to a person who is eligible for an educational costs exemption for the children or surviving spouse of a public safety officer under IC 21-14-6; ~~and~~

(3) for purposes of IC 21-14-7, refers to a person who is eligible for an educational costs exemption for children and spouses of National Guard members under IC 21-14-7; **and**

(4) for purposes of IC 21-14-10, refers to a person who is eligible for an educational costs exemption for Purple Heart recipients under IC 21-14-10.

SECTION 2. IC 21-14-4-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Subject to subsection (b)**, an eligible applicant is entitled to enter, remain, and receive instruction in a state educational institution upon the same conditions, qualifications, and regulations prescribed for other applicants for admission to or scholars in the state educational institutions, without the payment of any educational costs for one hundred twenty-four (124) semester credit hours in the state educational institution.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

SECTION 3. IC 21-14-7-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Subject to subsection (b),** an eligible applicant is exempt from the payment of educational costs for instruction at the state educational institution in which the eligible applicant is enrolled or will enroll.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

SECTION 4. IC 21-14-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 10. Tuition and Fee Exemption for Purple Heart Recipients

Sec. 1. This chapter applies to a person who:

(1) after September 10, 2001, enters on active duty service from a permanent home address in Indiana;

(2) receives an honorable discharge;

(3) receives the Purple Heart decoration for service described in subdivision (1);

(4) is eligible to pay the resident tuition rate at the state

educational institution the person will attend as determined by the institution; and

(5) possesses the requisite academic qualifications.

Sec. 2. (a) Subject to subsection (b), an eligible applicant is entitled to enter, remain, and receive instruction in a state educational institution upon the same conditions, qualifications, and regulations prescribed for other applicants for admission to or scholars in the state educational institution, without the payment of any educational costs for one hundred twenty-four (124) semester credit hours in the state educational institution.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

Sec. 3. For purposes of this chapter, the commission for higher education, in consultation with the state student assistance commission, shall define mandatory fees that qualify as educational costs.

Sec. 4. If an eligible applicant:

(1) is permitted to matriculate in a state educational institution;

(2) qualifies under this chapter; and

(3) has earned or has been awarded a cash scholarship that is paid or payable to the state educational institution, from any source;

the amount paid shall be applied to the credit of the eligible applicant in the payment of incidental expenses of the eligible applicant's attendance at the state educational institution. The balance, if the terms of the scholarship permit, must be returned to the eligible applicant.

Sec. 5. Determination of eligibility for higher education benefits authorized under this chapter is vested exclusively in the Indiana department of veterans' affairs. Any applicant for benefits under this chapter may make a written request for a determination of eligibility by the Indiana department of veterans' affairs. The director or deputy director of the Indiana department of veterans' affairs shall make a written determination of eligibility in response to each request. In determining the amount of an eligible applicant's benefit, the state student assistance commission shall

consider other higher education financial assistance in conformity with this chapter.

Sec. 6. An appeal from an adverse determination under section 5 of this chapter must be made in writing to the veterans' affairs commission not more than fifteen (15) working days following the applicant's receipt of the determination. A final order must be made by a simple majority of the veterans' affairs commission not more than fifteen (15) days following receipt of the written appeal.

Sec. 7. A person who knowingly or intentionally submits a false or misleading application or other document under this chapter commits a Class A misdemeanor.

Sec. 8. The amount of the benefits under this chapter is equal to one (1) of the following:

(1) If the eligible applicant does not receive financial assistance specifically designated for educational costs, the amount determined under sections 2 through 6 of this chapter.

(2) If the eligible applicant receives financial assistance specifically designated for educational costs:

(A) the amount determined under sections 2 through 6 of this chapter; minus

(B) the financial assistance specifically designated for educational costs.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) IC 21-14-4-2 and IC 21-14-7-2, both as amended by this act, apply to applications for eligible tuition or fee exemptions that are made after June 30, 2008.**

(b) This SECTION expires December 31, 2008.

SECTION 6. [EFFECTIVE JULY 1, 2008] **(a) A tuition or fee exemption under IC 21-14-10, as added by this act, is not eligible for reimbursement from an appropriation for statutory tuition or fee remissions or any other funds of the state.**

(b) This SECTION expires June 30, 2009.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the study of tuition and fee exemptions awarded by state educational institutions under reciprocity agreements with other postsecondary educational institutions located in or outside Indiana.**

(b) This SECTION expires December 31, 2008.

SECTION 8. **An emergency is declared for this act.**

P.L.142-2008

[H.1280. Approved March 24, 2008.]

AN ACT concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) The environmental quality service council established by IC 13-13-7-1 shall study and make findings and recommendations concerning the following:**

(1) Whether state law should:

(A) require; or

(B) encourage through incentives;

the construction and renovation of public buildings and structures with the goal of achieving particular energy and environmental design ratings.

(2) If the findings under subdivision (1) are in the affirmative:

(A) which energy and environmental design ratings systems should be used;

(B) which public buildings and structures should be covered;

(C) whether a price preference should apply for purchases of equipment that is compliant with particular energy ratings;

(D) if a price preference referred to in clause (C) applies:

(i) the appropriate percentage of the price preference; and

(ii) whether current law adequately takes into account a price preference in the determination of the successful

bid for sale of the equipment;

(E) whether the energy and environmental design ratings to be used should take into account the use of certified or noncertified wood from Indiana;

(F) if the findings under clause (E) are in the affirmative, which organization's wood certification standards should be used;

(G) estimates of the extent of realistic projected energy savings;

(H) estimates of the period over which additional construction costs are offset by energy cost savings; and

(I) any other issues the council considers appropriate.

(b) The environmental quality service council shall include its findings and recommendations developed under subsection (a) in the council's 2008 final report to the legislative council.

(c) This SECTION expires January 1, 2009.

SECTION 2. **An emergency is declared for this act.**

P.L.143-2008

[H.1290. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-9-2-46.7, AS ADDED BY P.L.145-2006, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46.7. "Foster care", for purposes of IC 31-25, IC 31-26, IC 31-27, IC 31-28-1, IC 31-28-2, ~~and~~ IC 31-28-3, **and IC 31-28-5.7,** means living in a place licensed under IC 31-27.

SECTION 2. IC 31-9-2-46.9, AS ADDED BY P.L.145-2006, SECTION 194, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: Sec. 46.9. **(a)** "Foster family home", for purposes of IC 31-27, means a place where an individual resides and provides care and supervision on a twenty-four (24) hour basis to:

(1) a child who **satisfies the conditions set forth in subsection (b);**

(2) an individual:

(A) who is at least eighteen (18) but less than twenty-one (21) years of age;

(B) who was placed in foster care under the order of a court; and

(C) who satisfies the conditions set forth in subsection (b); or

(3) an individual:

(A) who is at least eighteen (18) but less than twenty-one (21) years of age;

(B) who is receiving foster care for older youth; and

(C) who is no longer under the care and supervision of the juvenile court for purposes of placement.

(b) A child or an individual described in subsection (a)(1) or (a)(2):

(1) ~~is not~~ **may not be** the:

(A) child;

(B) stepchild;

(C) grandchild;

(D) niece;

(E) nephew; or

(F) sibling;

of the individual providing care and supervision;

(2) ~~is~~ **must be** separated from the child's **or individual's:**

(A) parent;

(B) stepparent;

(C) guardian;

(D) custodian; or

(E) other relative; and

(3) ~~is~~ **must be** receiving care and supervision under an order of ajuvenile court or for the purposes of placement.

(c) This section may not be construed to require the licensing of an individual who provides foster care to a relative.

SECTION 3. IC 31-9-2-117.5, AS ADDED BY P.L.145-2006, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 117.5. "Special needs foster family home", for purposes of IC 31-27, means a foster family home:

(1) that provides care for:

(A) a child; **or**

(B) an individual at least eighteen (18) but less than twenty-one (21) years of age receiving foster care for older youth under IC 31-28-5.7-1;

who ~~(A)~~ has a mental, physical, or emotional disability and ~~(B)~~ will require additional supervision or assistance in behavior management, activities of daily living, or management of medical problems; and

(2) that meets the additional requirements under IC 31-27-4-3.

SECTION 4. IC 31-9-2-129.5, AS ADDED BY P.L.1-2007, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 129.5. "Therapeutic foster family home", for purposes of IC 31-27, means a foster family home:

(1) that provides care to:

(A) a child; **or**

(B) an individual at least eighteen (18) but less than twenty-one (21) years of age receiving foster care for older youth under IC 31-28-5.7-1;

who is seriously emotionally disturbed or developmentally disabled;

(2) in which the child **or individual** receives treatment in a family home through an integrated array of services supervised and supported by qualified program staff from:

(A) the office of the secretary of family and social services;

(B) a managed care provider that contracts with the division of mental health and addiction; or

(C) a licensed child placing agency; and

(3) that meets the additional requirements of IC 31-27-4-2.

SECTION 5. IC 31-9-2-130.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 130.3. "Transitional services plan", for purposes of IC 31-25-2-21, has the meaning set forth in IC 31-25-2-21(a).**

SECTION 6. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):**

(1) Education.

(2) Employment.

(3) Housing.

(4) Health care.

(5) Development of problem solving skills.

(6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

(1) An individual who has become or will become:

(A) eighteen (18) years of age; or

(B) emancipated;

while receiving foster care.

(2) An individual who:

(A) is at least eighteen (18) but less than twenty-one (21) years of age; and

(B) is receiving foster care for older youth under IC 31-28-5.7.

(c) The department shall adopt rules under IC 4-22-2 necessary to implement the program described in this section.

SECTION 7. IC 31-27-4-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

(1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.

(2) Participate in preservice training that includes:

(A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(h) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).

~~(g)~~ **(i)** The department shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

SECTION 8. IC 31-27-4-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate

a special needs foster family home without a license issued under this article.

(c) The department may only issue a license for a special needs foster family home that meets:

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training that includes specialized training to meet the child's **or individual's** specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

(1) eight (8) individuals, each of whom: ~~either:~~

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children **or individuals** for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The department may grant an exception to this section whenever the department determines that the placement of siblings in the same special needs foster home is desirable.

(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).

~~(g)~~ **(h)** The department shall consider the specific needs of each special needs foster child **or individual** whenever the department

determines the appropriate number of children **or individuals** to place in the special needs foster home under subsection (f). The department may require a special needs foster family home to provide care and supervision to less than the maximum number of children **or individuals** allowed under subsection (f) upon consideration of the specific needs of a special needs foster child **or individual.**

~~(h)~~ **(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.**

(j) The department shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

SECTION 9. IC 31-27-4-8, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

(1) eight (8) individuals, each of whom: ~~either:~~

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children **or individuals** for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the eight (8) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that the placement of siblings in the same foster family home is desirable.

(d) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a foster family home shall not be considered in determining whether the foster family home meets or exceeds the limit set forth in subsection (a)(1).

SECTION 10. IC 31-28-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) This chapter remains in effect with respect to any state, territory, or possession of the**

United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, or possession or the district or commonwealth has not adopted the interstate compact for the placement of children under IC 31-28-6. This chapter remains in effect until the governor gives written notice of the withdrawal of Indiana from the compact set forth in section 1 of this chapter to the governor of each other jurisdiction that is a party to the compact set forth in section 1 of this chapter.

(b) IC 31-28-6 shall be used for the interstate placement of children for a state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, possession, district, or commonwealth has adopted the interstate compact for the placement of children in the format found in IC 31-28-6.

SECTION 11. IC 31-28-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5.7. Older Youth Foster Care

Sec. 1. (a) An individual who:

(1) is at least eighteen (18) but less than twenty-one (21) years of age; and

(2) received foster care under a court order during the month before the individual became eighteen (18) years of age;

is eligible to receive foster care services at any time until the individual becomes twenty-one (21) years of age.

(b) An individual described in subsection (a) may request the department to petition a court for the individual to receive older youth foster care services.

(c) A court shall grant a petition described in subsection (b) if the individual is:

(1) employed;

(2) attending a vocational or educational certification or degree program; or

(3) planning on attending a vocational or educational certification or degree program within six (6) months of the individual's eighteenth birthday.

(d) An individual may request the department to start the petition process described in subsections (b) and (c) for the individual if the individual is at least seventeen (17) years and six

(6) months of age.

(e) If an older youth receiving foster care:

(1) is receiving foster care because the older youth planned on attending a vocational or educational certification program; and

(2) does not begin attending a vocational or educational certification program within nine (9) months after the individual's eighteenth birthday;

foster care for the individual ceases without further action of the court.

Sec. 2. The department shall adopt rules under IC 4-22-2 to implement this chapter. The rules adopted under this section must apply to individuals working or attending vocational or educational programs as set forth in section 1 of this chapter.

SECTION 12. IC 31-28-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 6. Interstate Compact for the Placement of Children

Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in a form consistent with the compact terms and provisions as stated in this section in a form substantially as follows:

ARTICLE 1. PURPOSE

The purpose of this interstate compact for the placement of children is to do the following:

(1) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(4) Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(5) Provide for uniform data collection and information sharing between member states under this compact.

(6) Promote coordination between this compact, the Interstate

Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of and that provide services to children otherwise subject to this compact.

(7) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

The following definitions apply throughout this compact:

(1) "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

(2) "Assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine whether the placement meets the individualized needs of the child, including the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable only to a placement by a public child placing agency.

(3) "Certification" means to attest, declare, or swear to before a judge or notary public.

(4) "Child" means an individual who is less than eighteen (18) years of age.

(5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or by the bylaws or rules of the interstate commission.

(6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

(7) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any

Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602(c).

(8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".

(9) "Jurisdiction" means the power and authority of a court to hear and decide matters.

(10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

(11) "Legal risk placement" means legal risk adoption.

(12) "Member state" means a state that has enacted this compact.

(13) "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

(14) "Nonmember state" means a state that has not enacted this compact.

(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. The term also includes information regarding a discharge and any unauthorized absence from the facility.

(16) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

(17) "Private child placing agency" means any private

corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one (1) state to another and that is not an instrumentality of the state or acting under color of state law.

(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(19) "Public child placing agency" means any government child welfare agency or child protection agency, or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.

(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

(21) "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

(22) "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions that are primarily educational in character, hospitals, or other medical facilities.

(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and

promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets, or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Sending state" means the state from which the placement of a child is initiated.

(25) "Service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other territory of the United States.

(28) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b), this compact applies to the following:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state. However, the placement of such a child into a residential facility requires only notice of residential placement to the receiving state before placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(A) the child is being placed in a residential facility in

another member state and is not covered under another compact; or

(B) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(b) The provisions of this compact do not apply to the following:

(1) The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, if the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement. However, the placement is not intended to effectuate an adoption.

(3) The interstate placement of a child by one (1) relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(4) The placement of a child not subject to subsection (a) into a residential facility by the child's parent.

(5) The placement of a child with a noncustodial parent if:

(A) the noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(B) the court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(C) the court in the sending state dismisses its jurisdiction over the child's case.

(6) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(7) Cases in which a United States citizen child living overseas with the child's family, at least one (1) member of which is in the United States armed services and is stationed overseas, is removed and placed in a state.

(8) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules

of the interstate commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family having a member in the United States armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(d) This compact shall not be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the interstate compact for juveniles and the interstate compact on adoption and medical assistance. The interstate commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, the timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

(a) Except as provided in subsection (g) and ARTICLE V, subsection (b)(2) and (b)(3), concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Jurisdiction also includes the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(c) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) the parent with whom the child is reunified in the receiving state is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state;

(2) the child is adopted;

(3) the child reaches the age of majority under the laws of the sending state;

(4) the child achieves legal independence under the laws of the sending state;

(5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) the public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

(d) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(e) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior that involves a child as defined by the laws of the receiving state, that is committed by the child in the receiving state, and that would be a violation of the laws of the receiving state.

(f) This article does not limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(g) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed has subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

(h) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.

ARTICLE V. PLACEMENT EVALUATION

(a) Before sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(b) For placements by a private child placing agency, a child may

be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and immediate review of the required content in a request for approval of a placement by both the sending state's and the receiving state's public child placing agency. The required content to accompany a request for provisional approval shall include all of the following:

(1) A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval.

(2) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or where permitted, the laws of the state where the adoption will be finalized.

(3) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur.

(4) A home study.

(5) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents before finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted and has been received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

(e) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the interstate commission.

(f) Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of

whether the placement qualifies as a provisional placement.

(g) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

(h) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment.

(i) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

(j) For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

(k) The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

(c) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(d) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state under its applicable administrative procedures.

(e) If a determination not to approve the placement of the child in

the receiving state is overturned upon review, the placement shall be considered approved. However, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

(a) For the interstate placement of a child made by a public child placing agency or state court:

(1) the public child placing agency in the sending state shall have financial responsibility for:

(A) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state;

(2) the receiving state shall have financial responsibility only for:

(A) any assessment conducted by the receiving state; and

(B) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states; and

(3) nothing in this compact prohibits public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(b) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and

(2) financially responsible for the child absent a contractual agreement to the contrary.

(c) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

(d) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for

the child, including timely reports, during the period of the placement.

(e) This compact does not limit the authority of the public child placing agency in the receiving state to contract with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorize the provision of supervision or services by a licensed agency during the period of placement.

(f) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities, through the creation of an advisory council or use of an existing body or board.

(g) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(h) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions of this compact, before placement.

(i) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

(1) is a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;

(2) consists of one (1) commissioner from each member state, who shall be appointed by the executive head of the state human services administration with ultimate responsibility for

the child welfare program, and who shall have the legal authority to vote on policy related matters governed by this compact binding the state;

(3) operates under:

(A) a requirement that each member state represented at a meeting of the interstate commission is entitled to one (1) vote;

(B) a requirement that a majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

(C) a requirement that a representative shall not delegate a vote to another member state;

(D) a requirement that a representative may delegate voting authority to another person from the same member state for a specified meeting; and

(E) a requirement that the interstate commission shall include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission and who shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

(4) shall establish an executive committee, which shall have the authority to administer the day to day operations and administration of the interstate commission but does not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has powers to do the following:

(1) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(2) Provide for dispute resolution among member states.

(3) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact or the interstate commission's bylaws, rules, or actions.

(4) Enforce compliance with this compact or the bylaws or rules of the interstate commission under Article XII.

(5) Collect standardized data concerning the interstate

placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

(6) Establish and maintain offices as may be necessary for the transacting of its business.

(7) Purchase and maintain insurance and bonds.

(8) Hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

(9) Establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.

(10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the donations and grants.

(11) Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed.

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(13) Establish a budget and make expenditures.

(14) Adopt a seal and bylaws governing the management and operation of the interstate commission.

(15) Report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

(16) Coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

(17) Maintain books and records in accordance with the bylaws of the interstate commission.

(18) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) Bylaws.

(1) Within twelve (12) months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact.

(2) The interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(b) Meetings.

(1) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(2) Public notice shall be given by the interstate commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or part of a meeting, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(A) relate solely to the interstate commission's internal personnel practices and procedures;

(B) disclose matters specifically exempted from disclosure by federal law;

(C) disclose financial or commercial information that is privileged, proprietary, or confidential in nature;

(D) involve accusing a person of a crime, or formally censuring a person;

(E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one (1) or more persons;

(F) disclose investigative records compiled for law enforcement purposes; or

(G) specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or part of a meeting, closed under this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in the meeting and shall provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or by court order.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

(c) Officers and staff.

(1) The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the interstate commission may consider appropriate. The staff director shall serve as secretary to the interstate commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the staff

director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(3) The interstate commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission

employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate and publish rules in order effectively and efficiently to achieve the purposes of the compact.

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the interstate commission considers appropriate and consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall, at a minimum:

(1) publish the proposed rule's entire text, stating the reasons for that proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and be made publicly available; and

(3) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than sixty (60) days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the federal district court of the district where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it

aside.

(f) A majority of the legislatures of the member states may reject a rule by enacting, in the same manner used to adopt the compact, a statute or resolution that provides that the rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the interstate compact on the placement of children that are superseded by this act shall be null and void not less than twelve (12), but not more than twenty-four (24), months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

(h) Within the first twelve (12) months of operation, the interstate commission shall promulgate rules addressing the following:

(1) Transition rules.

(2) Forms and procedures.

(3) Time lines.

(4) Data collection and reporting.

(5) Rulemaking.

(6) Visitation.

(7) Progress reports/supervision.

(8) Sharing of information/confidentiality.

(9) Financing of the interstate commission.

(10) Mediation, arbitration, and dispute resolution.

(11) Education, training, and technical assistance.

(12) Enforcement.

(13) Coordination with other interstate compacts.

(i) Upon determination by a majority of the members of the interstate commission that an emergency exists, the interstate commission may promulgate an emergency rule, subject to the following:

(1) The interstate commission may promulgate an emergency rule only if the emergency rule is required to:

(A) protect the children covered by this compact from an imminent threat to their health, safety, and well-being;

(B) prevent loss of federal or state funds; or

(C) meet a deadline for the promulgation of an administrative rule required by federal law.

(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures

provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule.

(3) An emergency rule shall be promulgated as provided for in the rules of the interstate commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(a) Oversight.

(1) The interstate commission shall oversee the administration and operation of the compact.

(2) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the interstate commission, this compact, or the bylaws or rules of the interstate commission.

(b) Dispute resolution.

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement.

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(B) provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

(C) by majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal office, to enforce compliance with the provisions of the compact or with the interstate commission's bylaws or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any

kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XIV. MEMBER STATES, AMENDMENT

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by thirty-five (35) states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter, the compact shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

(a) Withdrawal.

(1) Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the statute establishing the compact. The effective date of withdrawal is the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the

president of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

(b) Dissolution of compact.

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Other laws.

(1) This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

(b) Binding effect of this compact.

(1) All lawful actions of the interstate commission, including

all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian tribes to use the compact to achieve any or all of the purposes of the compact as specified in Article I. The interstate commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

SECTION 13. IC 34-30-2-133.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 133.5. IC 31-28-6 (Concerning employees, staff, and representatives of the interstate commission for the placement of children).**

SECTION 14. P.L.234-2007, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 173. (a) As used in this SECTION, "commission" refers to the commission on disproportionality in youth services.

(b) As used in this SECTION, "youth services" means the following:

(1) Juvenile justice services.

(2) Child welfare services.

(3) Education services.

(4) Mental health services.

(c) The commission on disproportionality in youth services is established to develop and provide an implementation plan to evaluate and address disproportionate representation of youth of color in the use of youth services.

(d) The commission consists of the following members appointed not later than August 15, 2007:

(1) The dean or a faculty member of an Indiana accredited graduate school of public administration, social work, education,

mental health, or juvenile justice, who shall serve as chairperson of the commission.

(2) The state superintendent of public instruction, or the superintendent's designee.

(3) The director of the division of mental health and addiction, or the director's designee.

(4) The executive director of the Indiana criminal justice institute, or the executive director's designee.

(5) The director of the department of child services, or the director's designee.

(6) The commissioner of the department of correction, or the commissioner's designee.

(7) A division of child services county director from a densely populated county.

(8) A faculty member of an Indiana accredited college or university that offers undergraduate degrees in public administration, social work, education, mental health, or juvenile justice.

(9) A prosecuting attorney.

(10) A juvenile court judge.

(11) An attorney who specializes in juvenile law.

(12) A representative of the Indiana Minority Health Coalition.

(13) A health care provider who specializes in pediatric or emergency medicine.

(14) A public agency family case manager.

(15) A private agency children's service social worker.

(16) A school counselor or social worker.

(17) A representative of law enforcement.

(18) A guardian ad litem, court appointed special advocate, or other child advocate.

(19) The chairperson of an established advocacy group in Indiana that has previously investigated the issue of disproportionality in use of youth services.

(20) A young adult who has previous involvement with at least one (1) youth service.

(21) A representative of foster parents or adoptive parents.

(22) A representative of a state teacher's association or a public school teacher.

(23) A child psychiatrist or child psychologist.

(24) A representative of a family support group.

(25) A representative of the National Alliance on Mental Illness.

(26) A representative of the commission on the social status of black males.

(27) A representative of the Indiana Juvenile Detention Association.

(28) A representative of the commission on Hispanic/Latino affairs.

(29) A representative of the civil rights commission.

(30) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.

(31) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.

The governor shall appoint the members under subdivisions (1), (7), (10), (13), (16), (19), (22), (25), (28), and (29). The speaker of the house of representatives shall appoint the members under subdivisions (8), (11), (14), (17), (20), (23), (26), and (30). The president pro tempore of the senate shall appoint the members under subdivisions (9), (12), (15), (18), (21), (24), (27), and (31). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(e) Each member of the commission shall have an interest in or influence on evaluating and addressing disproportionate representation of youth of color in the use of youth services.

(f) A majority of the voting members of the commission constitutes a quorum.

(g) The Indiana accredited graduate school represented by the chairperson of the commission under subsection (d)(1) shall staff the commission.

(h) The commission shall meet at the call of the chairperson and shall meet as often as necessary to carry out the purposes of this SECTION.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(l) The commission's responsibilities include the following:

(1) Reviewing Indiana's public and private child welfare, juvenile justice, mental health, and education service delivery systems to evaluate disproportionality rates in the use of youth services by youth of color.

(2) Reviewing federal, state, and local funds appropriated to address disproportionality in the use of youth services by youth of color.

(3) Reviewing current best practice standards addressing disproportionality in the use of youth services by youth of color.

(4) Examining the qualifications and training of youth service providers and making recommendations for a training curriculum and other necessary changes.

(5) Recommending methods to improve use of available public and private funds to address disproportionality in the use of youth services by youth of color.

(6) Providing information concerning identified unmet youth service needs and providing recommendations concerning the development of resources to meet the identified needs.

(7) Suggesting policy, program, and legislative changes related to

youth services to accomplish the following:

(A) Enhancement of the quality of youth services.

(B) Identification of potential resources to promote change to enhance youth services.

(C) Reduction of the disproportionality in the use of youth services by youth of color.

(8) Preparing a report consisting of the commission's findings and recommendations, and the presentation of an implementation plan to address disproportionate representation of youth of color in use of youth services.

(m) In carrying out the commission's responsibilities, the commission shall consider pertinent studies concerning disproportionality in use of youth services by youth of color.

(n) The affirmative votes of a majority of the commission's voting members are required for the commission to take action on any measure, including recommendations included in the report required under subsection (l)(8).

(o) The commission shall submit the report required under subsection (l)(8) to the governor and to the legislative council not later than ~~August 15, 2008.~~ **November 15, 2008.** The report to the legislative council must be in an electronic format under IC 5-14-6. The commission shall make the report available to the public upon request not later than ~~December 1, 2008.~~ **December 15, 2008.**

(p) There is appropriated from the state general fund one hundred twenty-five thousand ($125,000) dollars for the period beginning July 1, 2007, and ending December 31, 2008, to carry out the purposes of this SECTION, including the hiring by the chairperson of an individual to serve only to assist the chairperson and members with research, statistical analysis, meeting support, and drafting of the report required under subsection (l)(8).

(q) This SECTION expires January 1, 2009.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 12-7-2-192.7; IC 12-13-5-13.

SECTION 16. [EFFECTIVE JULY 1, 2008] **(a) Cases involving the placement of children under the interstate compact on the placement of children set forth in IC 31-28-4 that are pending when the interstate compact for the placement of children set forth in IC 31-28-6-1, as added by this act, goes into effect under**

IC 31-28-4-1.5, as added by this act, are governed by the interstate compact on the placement of children set forth in IC 31-28-4.

(b) This SECTION expires December 31, 2013.

SECTION 17. **An emergency is declared for this act.**

P.L.144-2008

[H.1293. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "conveyance" means any transfer of a real property interest for valuable consideration. ~~except a transfer to a charity.~~

SECTION 2. IC 6-1.1-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** As used in this chapter, "conveyance document" means any **of the following:**

(1) Any of the following that purports to transfer a real property interest for valuable consideration:

(A) A document.

(B) A deed.

(C) A contract of sale.

(D) An agreement

(E) A judgment.

(F) A lease that includes the fee simple estate and is for a period in excess of ninety (90) years.

(G) A quitclaim deed serving as a source of title. ~~or other~~

(H) Another document presented for recording.

~~that purports to transfer a real property interest for valuable consideration.~~

(2) Documents for compulsory transactions as a result of

foreclosure or express threat of foreclosure, divorce, court order, condemnation, or probate.

(3) Documents involving the partition of land between tenants in common, joint tenants, or tenants by the entirety.

(b) The term does not include the following:

(1) Security interest documents such as mortgages and trust deeds.

(2) Leases that are for a term of less than ninety (90) years.

~~(3) Documents for compulsory transactions as a result of foreclosure or express threat of foreclosure, divorce, court order, condemnation, or probate.~~

~~(4) Documents involving the partition of land between tenants in common, joint tenants, or tenants by the entirety.~~

~~(5)~~ **(3)** Agreements and other documents for mergers, consolidations, and incorporations involving solely nonlisted stock.

~~(6)~~ **(4)** Quitclaim deeds not serving as a source of title.

SECTION 3. IC 6-1.1-5.5-3, AS AMENDED BY P.L.219-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) For purposes of this section, "party" includes:

(1) a seller of property that is exempt under the seller's ownership; or

(2) a purchaser of property that is exempt under the purchaser's ownership;

from property taxes under IC 6-1.1-10.

(b) **Subject to subsections (g) and (h),** before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must do the following:

(1) Complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form. **For conveyance transactions involving more than two (2) parties, one (1) transferor and one (1) transferee signing the sales disclosure form is sufficient.**

(2) Before filing a sales disclosure form with the county auditor,

submit the sales disclosure form to the county assessor. The county assessor must review the accuracy and completeness of each sales disclosure form submitted immediately upon receipt of the form and, if the form is accurate and complete, stamp **or otherwise approve** the form as eligible for filing with the county auditor and return the form to the appropriate party for filing with the county auditor. If multiple forms are filed in a short period, the county assessor shall process the forms as quickly as possible. For purposes of this subdivision, a sales disclosure form is considered to be accurate and complete if:

(A) the county assessor does not have substantial evidence when the form is reviewed under this subdivision that information in the form is inaccurate; and

(B) ~~the form:~~ **both of the following conditions are satisfied:**

(i) ~~substantially conforms to the sales disclosure form prescribed by the department of local government finance under section 5~~ **The form contains the information required by section 5(a)(1) through 5(a)(16) of this chapter as that section applies to the conveyance transaction, subject to the obligation of a party to furnish or correct that information in the manner required by and subject to the penalty provisions of section 12 of this chapter. The form may not be rejected for failure to contain information other than that required by section 5(a)(1) through 5(a)(16)** of this chapter. ~~and~~

(ii) **The form** is submitted to the county assessor in a format usable to the county assessor.

(3) File the sales disclosure form with the county auditor.

(c) Except as provided in subsection (d), the auditor shall **review each sales disclosure form and process any homestead credit and deduction for which the form serves as an application under IC 6-1.1-12-44 and IC 6-1.1-20.9-3.5. The auditor shall** forward each sales disclosure form to the county assessor. **The county assessor shall verify the assessed valuation of the property for the assessment date to which the application applies and transmit that assessed valuation to the auditor.** The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure

form data to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) In a county containing a consolidated city, the auditor **shall review each sales disclosure form and process any homestead credit and deduction for which the form serves as an application under IC 6-1.1-12-44 and IC 6-1.1-20.9-3.5. The auditor** shall forward the sales disclosure form to the appropriate township assessor. **The township assessor shall verify the assessed valuation of the property for the assessment date to which the application applies and transmit that assessed valuation to the auditor.** The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The forms may be used by the county assessing officials, **the county auditor,** the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(e) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

(f) County assessing officials, **county auditors,** and other local officials may not establish procedures or requirements concerning sales disclosure forms that substantially differ from the procedures and requirements of this chapter.

(g) Except as provided in subsection (h), a separate sales disclosure form is required for each parcel conveyed, regardless of whether more than one (1) parcel is conveyed under a single conveyance document.

(h) Only one (1) sales disclosure form is required for the conveyance under a single conveyance document of two (2) or more contiguous parcels located entirely within a single taxing district.

SECTION 4. IC 6-1.1-5.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **Except as provided in subsection (b),** a person filing a sales disclosure form under this chapter shall pay a fee of ~~five~~ **ten** dollars ~~($5)~~ **($10)** to the county auditor.

(b) No fee is due and payable under subsection (a) if the conveyance to which the sales disclosure form filing applies is either or both of the following:

(1) To a charity.

(2) Under a conveyance document described in section 2(a)(2) or 2(a)(3) of this chapter.

~~(b) Eighty~~ **(c) Fifty** percent ~~(80%)~~ **(50%)** of the revenue collected under this section and section 12 of this chapter shall be deposited in the county sales disclosure fund established under section 4.5 of this chapter. ~~Twenty~~ **Fifty** percent ~~(20%)~~ **(50%)** of the revenue shall be transferred to the state treasurer for deposit in the state assessment training fund established under section 4.7 of this chapter.

SECTION 5. IC 6-1.1-5.5-5, AS AMENDED BY P.L.154-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

(1) The key number **(as defined in IC 6-1.1-1-8.5)** of ~~the~~ **each** parcel. ~~(as defined in IC 6-1.1-1-8.5).~~

(2) **With respect to each parcel,** whether the entire parcel is being conveyed.

(3) The address of ~~the property.~~ **each improved parcel.**

(4) The date of the execution of the form.

(5) The date the property was transferred.

(6) Whether the transfer includes an interest in land or improvements, or both.

(7) Whether the transfer includes personal property.

(8) An estimate of **the value of** any personal property included in the transfer.

(9) The name, address, and telephone number of:

(A) each transferor and transferee; and

(B) the person that prepared the form.

(10) The mailing address to which the property tax bills or other official correspondence should be sent.

(11) The ownership interest transferred.

(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).

(13) **Subject to subsection (c),** the total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) A legal description of each parcel subject to the conveyance.

(17) Whether the transferee is using the form to claim the following for property taxes first due and payable in a calendar year after 2008:

(A) One (1) or more deductions under IC 6-1.1-12-44.

(B) The homestead credit under IC 6-1.1-20.9-3.5.

(18) If the transferee uses the form to claim the homestead credit under IC 6-1.1-20.9-3.5, the name of any other county and township in which the transferee of residential real property owns or is buying residential real property.

~~(16)~~ **(19)** Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

(b) The instructions for completing the form described in subsection (a) must include the information described in IC 6-1.1-12-43(c)(1).

(c) If the conveyance includes more than one (1) parcel as

described in section 3(h) of this chapter, the form:

(1) is not required to include the price referred to in subsection (a)(13) for each of the parcels subject to the conveyance; and

(2) may state a single combined price for all of those parcels.

SECTION 6. IC 6-1.1-5.5-6, AS AMENDED BY P.L.154-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The county auditor may not accept a conveyance document if:

(1) the sales disclosure form signed by all the parties and attested as required under section 9 of this chapter is not included with the document; or

(2) the sales disclosure form does not contain the information ~~described in section 5(a)~~ **required by section 5(a)(1) through 5(a)(16)** of this chapter **as that section applies to the conveyance, subject to the obligation of a party to furnish or correct the information in the manner required by and subject to the penalty provisions of section 12 of this chapter.**

(b) The county recorder shall not record a conveyance document without evidence that the parties have filed **with the county auditor** a ~~completed~~ sales disclosure form ~~with the county auditor.~~ **approved by the county assessor as eligible for filing under section 3(b)(2) of this chapter.**

SECTION 7. IC 6-1.1-5.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A person who knowingly and intentionally:

(1) falsifies the value of transferred real property; or

(2) omits or falsifies any information required to be provided in the sales disclosure form;

commits a ~~Class A misdemeanor.~~ **Class C felony.**

(b) A public official who knowingly and intentionally accepts:

(1) a sales disclosure document for filing that:

(A) falsifies the value of transferred real property; or

(B) omits or falsifies any information required to be provided in the sales disclosure form; or

(2) a conveyance document for recording in violation of section 6 of this chapter;

commits a Class A infraction.

SECTION 8. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A party to a conveyance who:

(1) ~~is required to file~~ **either:**

(A) files a sales disclosure form ~~under~~ **that does not contain all of the information required by** this chapter; **or**

(B) files a sales disclosure form that contains inaccurate information;

and receives from the township assessor (in a county containing a consolidated city) or the county assessor (in any other county) written notice of the problems described in clause (A) or (B); and

(2) fails to file a **correct** sales disclosure form ~~at the time and in the manner required by this chapter;~~ **that fully complies with all requirements of this chapter within thirty (30) days after the date of the notice under subdivision (1);**

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

(1) one hundred dollars ($100); or

(2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) The township assessor in a county containing a consolidated city, or the county assessor in any other county, shall:

(1) determine the penalty imposed under this section;

(2) assess the penalty to the party to a conveyance; and

(3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) The county auditor shall:

(1) collect the penalty imposed under this section;

(2) deposit penalty collections as required under section 4 of this chapter; and

(3) notify the county prosecuting attorney of delinquent payments.

(e) The county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

SECTION 9. IC 6-1.1-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Sec. 1. (a) Each year a person who is a resident of this state may receive a deduction from the assessed value of:

(1) mortgaged real property, an installment loan financed mobile home that is not assessed as real property, or an installment loan financed manufactured home that is not assessed as real property that he owns; or

(2) real property, a mobile home that is not assessed as real property, or a manufactured home that is not assessed as real property that he is buying under a contract, with the contract or a memorandum of the contract recorded in the county recorder's office, which provides that he is to pay the property taxes on the real property, mobile home, or manufactured home.

(b) Except as provided in section 40.5 of this chapter, the total amount of the deduction which the person may receive under this section for a particular year is:

(1) the balance of the mortgage or contract indebtedness on the assessment date of that year;

(2) one-half (1/2) of the assessed value of the real property, mobile home, or manufactured home; or

(3) three thousand dollars ($3,000);

whichever is least.

(c) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract which provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(d) The person must:

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under section 2 of this chapter.

SECTION 10. IC 6-1.1-12-2, AS AMENDED BY P.L.183-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) Except as provided in section 17.8 of this chapter **and subject to section 45 of this**

chapter, a person who desires to claim the deduction provided by section 1 of this chapter must file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property the statement must be filed during the ~~twelve (12) months before June 11 of each~~ year for which the person wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property. Upon receipt of the statement and the recorded contract or recorded memorandum of the contract, the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury, and the statement must contain the following information:

(1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(c) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

SECTION 11. IC 6-1.1-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. An individual ~~who is a resident of this state on the assessment date of any year~~ may claim the deduction provided by section 1 of this chapter for ~~that~~ **the assessment date in a** year in the manner prescribed in section 4 of this chapter if during the filing period prescribed in section 2 of this chapter ~~he~~ **that applies to the assessment date the individual** was:

(1) a member of the United States armed forces; and

(2) away from the county of his residence as a result of military service.

SECTION 12. IC 6-1.1-12-4, AS AMENDED BY P.L.154-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 4. (a) An individual who satisfies the requirements of section 3 of this chapter may file a claim for a deduction, or deductions, provided by section 1 of this chapter during the ~~twelve (12) months before June 11 of the~~ year following the year in which the individual is discharged from military service. The individual shall file the claim, on the forms prescribed for claiming a deduction under section 2 of this chapter, with the auditor of the county in which the real property is located. The claim shall specify the particular year, or years, for which the deduction is claimed. The individual shall attach to the claim an affidavit which states the facts

concerning the individual's absence as a member of the United States armed forces.

(b) The county property tax assessment board of appeals shall examine the individual's claim and shall determine the amount of deduction, or deductions, the individual is entitled to and the year, or years, for which deductions are due. Based on the board's determination, the county auditor shall calculate the excess taxes paid by the individual and shall refund the excess to the individual from funds not otherwise appropriated. The county auditor shall issue, and the county treasurer shall pay, a warrant for the amount, if any, to which the individual is entitled.

SECTION 13. IC 6-1.1-12-9, AS AMENDED BY P.L.219-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars ($25,000);

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's

office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred eighty-two thousand four hundred thirty dollars ($182,430); ~~and~~

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, and 38 of this chapter; **and**

(7) the person:

(1) owns the real property, mobile home, or manufactured home; or

(2) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 10.1 of this chapter is filed.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the real property; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the mobile home or manufactured home; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

(1) tenants by the entirety;

(2) joint tenants; or

(3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

(1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;

(3) the surviving spouse has not remarried; and

(4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through ~~(a)(6).~~ **(a)(7).**

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 14. IC 6-1.1-12-10.1, AS AMENDED BY P.L.183-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 10.1. (a) Except as provided in ~~section 7.8~~ **section 17.8** of this chapter **and subject to section 45 of this chapter,** an individual who desires to claim the deduction provided by section 9 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is located. With respect to real property, the statement must be filed during the ~~twelve (12) months before June 11 of each~~ year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain

the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement referred to in subsection (a) shall be in affidavit form or require verification under penalties of perjury. The statement must be filed in duplicate if the applicant owns, or is buying under a contract, real property, a mobile home, or a manufactured home subject to assessment in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) the source and exact amount of gross income received by the individual and the individual's spouse during the preceding calendar year;

(2) the description and assessed value of the real property, mobile home, or manufactured home;

(3) the individual's full name and complete residence address;

(4) the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on contract; and

(5) any additional information which the department of local government finance may require.

(c) In order to substantiate the deduction statement, the applicant shall submit for inspection by the county auditor a copy of the applicant's and a copy of the applicant's spouse's income tax returns for the preceding calendar year. If either was not required to file an income tax return, the applicant shall subscribe to that fact in the deduction statement.

SECTION 15. IC 6-1.1-12-11, AS AMENDED BY P.L.99-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 11. (a) Except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual owns, or that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office,

and if:

(1) the individual is blind or the individual has a disability;

(2) the real property, mobile home, or manufactured home is principally used and occupied by the individual as the individual's residence; ~~and~~

(3) the individual's taxable gross income for the calendar year preceding the year in which the deduction is claimed did not exceed seventeen thousand dollars ($17,000); **and**

(4) the individual:

(1) owns the real property, mobile home, or manufactured home; or

(2) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 12 of this chapter is filed.

(b) For purposes of this section, taxable gross income does not include income which is not taxed under the federal income tax laws.

(c) For purposes of this section, "blind" has the same meaning as the definition contained in IC 12-7-2-21(1).

(d) For purposes of this section, "individual with a disability" means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which:

(1) can be expected to result in death; or

(2) has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(e) An individual with a disability filing a claim under this section shall submit proof of disability in such form and manner as the department shall by rule prescribe. Proof that a claimant is eligible to receive disability benefits under the federal Social Security Act (42 U.S.C. 301 et seq.) shall constitute proof of disability for purposes of this section.

(f) An individual with a disability not covered under the federal Social Security Act shall be examined by a physician and the individual's status as an individual with a disability determined by using the same standards as used by the Social Security Administration. The costs of this examination shall be borne by the claimant.

(g) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real

property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 16. IC 6-1.1-12-12, AS AMENDED BY P.L.183-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 12. (a) Except as provided in section 17.8 of this chapter **and subject to section 45 of this chapter,** a person who desires to claim the deduction provided in section 11 of this chapter must file an application, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed during the ~~twelve (12) months before June 11 of each~~ year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of a county office of family and children, the division of family resources, or the division of disability and rehabilitative services; or

(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 17. IC 6-1.1-12-13, AS AMENDED BY P.L.99-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2008 (RETROACTIVE)]: Sec. 13. (a) Except as provided in section 40.5 of this chapter, an individual may have twenty-four thousand nine hundred sixty dollars ($24,960) deducted from the assessed value of the taxable tangible property that the individual owns, or real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office and if:

(1) the individual served in the military or naval forces of the United States during any of its wars;

(2) the individual received an honorable discharge;

(3) the individual has a disability with a service connected disability of ten percent (10%) or more; ~~and~~

(4) the individual's disability is evidenced by:

(A) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section; **and**

(5) the individual:

(1) owns the real property, mobile home, or manufactured home; or

(2) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 15 of this chapter is filed.

(b) The surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) One who receives the deduction provided by this section may not receive the deduction provided by section 16 of this chapter. However, the individual may receive any other property tax deduction which the individual is entitled to by law.

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 18. IC 6-1.1-12-14, AS AMENDED BY P.L.219-2007, SECTION 26, AND AS AMENDED BY P.L.99-2007, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

(1) the individual served in the military or naval forces of the United States for at least ninety (90) days;

(2) the individual received an honorable discharge;

(3) the individual either:

(A) ~~*is totally disabled;*~~ *has a total disability;* or

(B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); ~~and~~

(4) the individual's disability is evidenced by:

(A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section; **and**

(5) the individual:

(1) owns the real property, mobile home, or manufactured

home; or

(2) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 15 of this chapter is filed.

(b) Except as provided in subsection (c), the surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred ~~*thirteen*~~ *forty-three* thousand *one hundred sixty* dollars ~~*($113,000).*~~ *($143,160).*

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 19. IC 6-1.1-12-15, AS AMENDED BY P.L.183-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 15. (a) Except as provided in section 17.8 of this chapter **and subject to section 45 of this chapter,** an individual who desires to claim the deduction provided by section 13 or section 14 of this chapter must file a statement with the auditor of the county in which the individual resides. With respect to real property, the statement must be filed during the ~~twelve (12) months before June 11 of each~~ year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain a sworn declaration that the individual is entitled to the deduction.

(b) In addition to the statement, the individual shall submit to the county auditor for the auditor's inspection:

(1) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 13 of this chapter;

(2) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 14 of this chapter; or

(3) the appropriate certificate of eligibility issued to the individual by the Indiana department of veterans' affairs if the individual claims the deduction provided by section 13 or 14 of this chapter.

(c) If the individual claiming the deduction is under guardianship, the guardian shall file the statement required by this section.

(d) If the individual claiming a deduction under section 13 or 14 of this chapter is buying real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property under a contract that provides that the individual is to pay property taxes for the real estate, mobile home, or manufactured home, the statement required by this section must contain the record number and page where the contract or memorandum of the contract is recorded.

SECTION 20. IC 6-1.1-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 16. (a) Except as provided in section 40.5 of this chapter, a surviving spouse may have the sum of eighteen thousand seven hundred twenty dollars ($18,720) deducted from the assessed value of his or her tangible property, or real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the surviving spouse is buying under a contract that provides that he is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office, and if:

(1) the deceased spouse served in the military or naval forces of the United States before November 12, 1918; ~~and~~

(2) the deceased spouse received an honorable discharge; **and**

(3) the surviving spouse:

(1) owns the real property, mobile home, or manufactured home; or

(2) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 17 of this chapter is filed.

(b) A surviving spouse who receives the deduction provided by this section may not receive the deduction provided by section 13 of this chapter. However, he or she may receive any other deduction which he or she is entitled to by law.

(c) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 21. IC 6-1.1-12-17, AS AMENDED BY P.L.183-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 17. Except as provided in section 17.8 of this chapter **and subject to section 45 of this chapter,** a surviving spouse who desires to claim the deduction provided by section 16 of this chapter must file a statement with the auditor of the county in which the surviving spouse resides. With respect to real property, the statement must be filed during the ~~twelve (12) months before June 11 of each~~ year for which the surviving spouse wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain:

(1) a sworn statement that the surviving spouse is entitled to the deduction; and

(2) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property on a contract that provides that the individual is to pay property taxes on the real property.

In addition to the statement, the surviving spouse shall submit to the county auditor for the auditor's inspection a letter or certificate from the United States Department of Veterans Affairs establishing the service

of the deceased spouse in the military or naval forces of the United States before November 12, 1918.

SECTION 22. IC 6-1.1-12-17.4, AS AMENDED BY P.L.219-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 17.4. (a) Except as provided in section 40.5 of this chapter, a World War I veteran who is a resident of Indiana is entitled to have the sum of eighteen thousand seven hundred twenty dollars ($18,720) deducted from the assessed valuation of the real property (including a mobile home that is assessed as real property), mobile home that is not assessed as real property, or manufactured home that is not assessed as real property the veteran owns or is buying under a contract that requires the veteran to pay property taxes on the real property, if the contract or a memorandum of the contract is recorded in the county recorder's office, if:

(1) the real property, mobile home, or manufactured home is the veteran's principal residence;

(2) the assessed valuation of the real property, mobile home, or manufactured home does not exceed two hundred six thousand five hundred dollars ($206,500); ~~and~~

(3) the veteran owns the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; **and**

(4) the veteran:

(1) owns the real property, mobile home, or manufactured home; or

(2) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 17.5 of this chapter is filed.

(b) An individual may not be denied the deduction provided by this section because the individual is absent from the individual's principal residence while in a nursing home or hospital.

(c) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by a husband and wife as tenants by the entirety, only one (1) deduction may be allowed under this section. However, the deduction provided in this section applies if either spouse satisfies the requirements prescribed in subsection (a).

(d) An individual who has sold real property, a mobile home not

assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

SECTION 23. IC 6-1.1-12-17.5, AS AMENDED BY P.L.183-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 17.5. (a) Except as provided in section 17.8 of this chapter **and subject to section 45 of this chapter,** a veteran who desires to claim the deduction provided in section 17.4 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is assessed. With respect to real property, the veteran must file the statement during the ~~twelve (12) months before June 11 of each~~ year for which the veteran wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement required under this section shall be in affidavit form or require verification under penalties of perjury. The statement shall be filed in duplicate if the veteran has, or is buying under a contract, real property in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) a description and the assessed value of the real property, mobile home, or manufactured home;

(2) the veteran's full name and complete residence address;

(3) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home; and

(4) any additional information which the department of local government finance may require.

SECTION 24. IC 6-1.1-12-17.8, AS AMENDED BY P.L.95-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 17.8. (a) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year.

(b) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who becomes ineligible for the deduction in the following year shall notify the auditor of the county in which the real property, mobile home, or manufactured home for which the individual claims the deduction is located of the individual's ineligibility ~~before June 11 of~~ **in** the year in which the individual becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of the property in a divorce decree.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, or 17.4 of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

(1) the individual who occupies the real property receives a deduction provided under section 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year; and

(2) the trust remains eligible for the deduction in the following

year.

SECTION 25. IC 6-1.1-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 18. (a) If the assessed value of residential real property described in subsection (d) is increased because it has been rehabilitated, the owner may have deducted from the assessed value of the property an amount not to exceed the lesser of:

(1) the total increase in assessed value resulting from the rehabilitation; or

(2) eighteen thousand seven hundred twenty dollars ($18,720) per rehabilitated dwelling unit.

The owner is entitled to this deduction annually for a five (5) year period.

(b) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, or improvements to an existing structure which are intended to increase the livability, utility, safety, or value of the property under rules adopted by the department of local government finance.

(c) For the purposes of this section, the term "owner" or "property owner" includes any person who has the legal obligation, or has otherwise assumed the obligation, to pay the real property taxes on the rehabilitated property.

(d) The deduction provided by this section applies only:

(1) for the rehabilitation of residential real property which is located within this state and which is described in one (1) of the following classifications:

~~(1)~~ **(A)** A single family dwelling if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed thirty-seven thousand four hundred forty dollars ($37,440).

~~(2)~~ **(B)** A two (2) family dwelling if before rehabilitation the assessed value (excluding exemptions or deductions) of the improvements does not exceed forty-nine thousand nine hundred twenty dollars ($49,920). ~~and~~

~~(3)~~ **(C)** A dwelling with more than two (2) family units if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed eighteen thousand seven hundred twenty dollars

($18,720) per dwelling unit; **and**

(2) if the property owner:

(A) owns the residential real property; or

(B) is buying the residential real property under contract; on the assessment date of the year in which an application must be filed under section 20 of this chapter.

SECTION 26. IC 6-1.1-12-20, AS AMENDED BY P.L.154-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) **and subject to section 45 of this chapter,** the application must be filed ~~before June 11 of~~ **in** the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before ~~May 11~~ **December 1** of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section shall contain the following information:

(1) a description of the property for which a deduction is claimed in sufficient detail to afford identification;

(2) statements of the ownership of the property;

(3) the assessed value of the improvements on the property before rehabilitation;

(4) the number of dwelling units on the property;

(5) the number of dwelling units rehabilitated;

(6) the increase in assessed value resulting from the rehabilitation; and

(7) the amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the increase in assessed value occurs and for the immediately following four (4) years without any additional application

being filed.

(e) On verification of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

SECTION 27. IC 6-1.1-12-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 22. (a) If the assessed value of property is increased because it has been rehabilitated and the owner has paid at least ten thousand dollars ($10,000) for the rehabilitation, the owner is entitled to have deducted from the assessed value of the property an amount equal to fifty percent (50%) of the increase in assessed value resulting from the rehabilitation. The owner is entitled to this deduction annually for a five (5) year period. However, the maximum deduction which a property owner may receive under this section for a particular year is:

(1) one hundred twenty-four thousand eight hundred dollars ($124,800) for a single family dwelling unit; or

(2) three hundred thousand dollars ($300,000) for any other type of property.

(b) For purposes of this section, the term "property" means a building or structure which was erected at least fifty (50) years before the date of application for the deduction provided by this section. The term "property" does not include land.

(c) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, or improvements to an existing structure that are intended to increase the livability, utility, safety, or value of the property under rules adopted by the department of local government finance.

(d) The deduction provided by this section applies only if the property owner:

(1) owns the property; or

(2) is buying the property under contract;

on the assessment date of the year in which an application must be filed under section 24 of this chapter.

SECTION 28. IC 6-1.1-12-24, AS AMENDED BY P.L.154-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed

by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) **and subject to section 45 of this chapter,** the application must be filed ~~before June 11 of~~ **in** the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for any year is not given to the property owner before ~~May 11~~ **December 31** of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section shall contain the following information:

(1) the name of the property owner;

(2) a description of the property for which a deduction is claimed in sufficient detail to afford identification;

(3) the assessed value of the improvements on the property before rehabilitation;

(4) the increase in the assessed value of improvements resulting from the rehabilitation; and

(5) the amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the addition to assessed value is made and in the immediate following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

SECTION 29. IC 6-1.1-12-27.1, AS AMENDED BY P.L.183-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 27.1. Except as provided in ~~section 36~~ **sections 36 and 44** of this chapter **and subject to section 45 of this chapter,** a person who desires to claim the deduction provided by section 26 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the

person must file the statement during the ~~twelve (12) months before June 11 of each~~ year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. **The person must:**

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under this section. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, the county auditor shall allow the deduction.

SECTION 30. IC 6-1.1-12-30, AS AMENDED BY P.L.183-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 30. Except as provided in section 36 of this chapter **and subject to section 45 of this chapter,** a person who desires to claim the deduction provided by section 29 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement during the ~~twelve (12) months before June 11 of each~~ year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. **The person must:**

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under this section. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, the county auditor

shall allow the deduction.

SECTION 31. IC 6-1.1-12-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 31. (a) For purposes of this section, "coal conversion system" means tangible property directly used to convert coal into a gaseous or liquid fuel or char. This definition includes coal liquification, gasification, pyrolysis, and a fluid bed combustion system designed for pollution control.

(b) For each calendar year which begins after December 31, 1979, and before January 1, 1988, the owner of a coal conversion system which is used to process coal is entitled to a deduction from the assessed value of the system. The amount of the deduction for a particular calendar year equals the product of (1) ninety-five percent (95%) of the assessed value of the system, multiplied by (2) a fraction. The numerator of the fraction is the amount of Indiana coal converted by the system during the immediately preceding calendar year and the denominator of the fraction is the total amount of coal converted by the system during the immediately preceding calendar year.

(c) The deduction provided by this section applies only if the property owner:

(1) owns the property; or

(2) is buying the property under contract;

on the assessment date for which the deduction applies.

SECTION 32. IC 6-1.1-12-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 33. (a) For purposes of this section "hydroelectric power device" means a device which is installed after December 31, 1981, and is designed to utilize the kinetic power of moving water to provide mechanical energy or to produce electricity.

(b) The owner of real property, or a mobile home that is not assessed as real property, that is equipped with a hydroelectric power device is annually entitled to a property tax deduction. The amount of the deduction equals the remainder of: (1) the assessed value of the real property or mobile home with the hydroelectric power device; minus (2) the assessed value of the real property or mobile home without the hydroelectric power device.

(c) The deduction provided by this section applies only if the property owner:

(1) owns the real property or mobile home; or

(2) is buying the real property or mobile home under contract;

on the date the statement is filed under section 35.5 of this chapter.

SECTION 33. IC 6-1.1-12-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 34. (a) For purposes of this section, "geothermal energy heating or cooling device" means a device that is installed after December 31, 1981, and is designed to utilize the natural heat from the earth to provide hot water, produce electricity, or generate heating or cooling.

(b) The owner of real property, or a mobile home that is not assessed as real property, that is equipped with a geothermal energy heating or cooling device is annually entitled to a property tax deduction. The amount of the deduction equals the remainder of: (1) the assessed value of the real property or mobile home with the geothermal heating or cooling device; minus (2) the assessed value of the real property or mobile home without the geothermal heating or cooling device.

(c) The deduction provided by this section applies only if the property owner:

(1) owns the real property or mobile home; or

(2) is buying the real property or mobile home under contract;

on the date the statement is filed under section 35.5 of this chapter.

SECTION 34. IC 6-1.1-12-34.5, AS ADDED BY P.L.214-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 34.5. (a) As used in this section, "coal combustion product" has the meaning set forth in IC 6-1.1-44-1.

(b) As used in this section, "qualified building" means a building designed and constructed to systematically use qualified materials throughout the building.

(c) For purposes of this section, building materials are "qualified materials" if at least sixty percent (60%) of the materials' dry weight consists of coal combustion products.

(d) The owner of a qualified building, as determined by the center for coal technology research, is entitled to a property tax deduction for not more than three (3) years. The amount of the deduction equals the product of:

(1) the assessed value of the qualified building; multiplied by

(2) five percent (5%).

(e) The deduction provided by this section applies only if the building owner:

(1) owns the building; or

(2) is buying the building under contract;

on the assessment date for which the deduction applies.

SECTION 35. IC 6-1.1-12-35.5, AS AMENDED BY P.L.183-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 35.5. (a) Except as provided in section 36 **or 44** of this chapter **and subject to section 45 of this chapter,** a person who desires to claim the deduction provided by section 31, 33, 34, or 34.5 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) or (f) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement during the ~~twelve (12) months before June 11 of the assessment~~ year **for which the person wishes to obtain the deduction.** The person must file the statement in each year for which the person desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification

process required by this subsection.

(c) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. If the department of environmental management receives an application for certification, ~~before May 11 of the assessment year,~~ the department shall determine whether the system or device qualifies for a deduction. ~~before June 11 of the assessment year.~~ If the department fails to make a determination under this subsection before ~~June 11 of the assessment~~ **December 31 of the** year **in which the application is received,** the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, 34, or 34.5 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) during the ~~twelve (12) months before June 11 of that~~ year ~~A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.~~ **in which the personal property return is filed.**

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 21-47-4-1, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter: ~~before May 11 of an assessment year:~~

(1) the center shall determine whether the building qualifies for a deduction; ~~before June 11 of the assessment year,~~ and

(2) if the center fails to make a determination before ~~June 11~~

December 31 of the ~~assessment~~ year **in which the application is received,** the building is considered certified.

SECTION 36. IC 6-1.1-12-38, AS AMENDED BY P.L.154-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11; minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11.

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement, the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11. **Subject to section 45 of this chapter,** the statement and certification must be filed ~~before June 11 of~~ **during** the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the property is subject to assessment, the county auditor shall allow the deduction.

(c) The deduction provided by this section applies only if the person:

(1) owns the property; or

(2) is buying the property under contract;

on the assessment date for which the deduction applies.

SECTION 37. IC 6-1.1-12-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 44. (a) A**

sales disclosure form under IC 6-1.1-5.5:

(1) that is submitted:

(A) as a paper form; or

(B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in IC 6-1.1-20.9-1) assessed as real property;

(2) that is accurate and complete;

(3) that is approved by the county assessor as eligible for filing with the county auditor; and

(4) that is filed:

(A) as a paper form; or

(B) electronically;

with the county auditor by or on behalf of the purchaser;

constitutes an application for the deductions provided by sections 26, 29, 33, and 34 of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

(b) Except as provided in subsection (c), if:

(1) the county auditor receives in a calendar year a sales disclosure form that meets the requirements of subsection (a); and

(2) the homestead for which the sales disclosure form is submitted is otherwise eligible for a deduction referred to in subsection (a);

the county auditor shall apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies under subsection (a) and in any later year in which the homestead remains eligible for the deduction.

(c) Subsection (b) does not apply if the county auditor, after receiving a sales disclosure form from or on behalf of a purchaser under subsection (a)(4), determines that the homestead is ineligible for the deduction.

SECTION 38. IC 6-1.1-12-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 45. (a) Subject to subsections (b) and (c), a deduction under this chapter applies for an assessment date and for the property taxes due and payable based on the assessment for that assessment date,**

regardless of whether with respect to the real property or mobile home or manufactured home not assessed as real property:

(1) the title is conveyed one (1) or more times; or

(2) one (1) or more contracts to purchase are entered into;

after that assessment date and on or before the next succeeding assessment date.

(b) Subsection (a) applies:

(1) only if the title holder or the contract buyer on that next succeeding assessment date is eligible for the deduction for that next succeeding assessment date; and

(2) regardless of whether:

(A) one (1) or more grantees of title under subsection (a)(1); or

(B) one (1) or more contract purchasers under subsection (a)(2);

files a statement under this chapter to claim the deduction.

(c) A deduction applies under subsection (a) for only one (1) year. The requirements of this chapter for filing a statement to apply for a deduction under this chapter apply to subsequent years.

(d) If:

(1) a statement is filed under this chapter in a calendar year to claim a deduction under this chapter with respect to real property; and

(2) the eligibility criteria for the deduction are met;

the deduction applies for the assessment date in that calendar year and for the property taxes due and payable based on the assessment for that assessment date.

(e) If:

(1) a statement is filed under this chapter in a twelve (12) month filing period designated under this chapter to claim a deduction under this chapter with respect to a mobile home or a manufactured home not assessed as real property; and

(2) the eligibility criteria for the deduction are met;

the deduction applies for the assessment date in that twelve (12) month period and for the property taxes due and payable based on the assessment for that assessment date.

SECTION 39. IC 6-1.1-17-0.5, AS AMENDED BY P.L.154-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) For purposes of this section, "assessed

value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

(1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit.

(2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.

(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from **any or a combination of the following:**

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) Deductions under IC 6-1.1-12-37 that result from the granting of applications for the homestead credit for the calendar year under IC 6-1.1-20.9-3 or IC 6-1.1-20.9-3.5 after the county auditor certifies assessed value as described in this section.

(3) Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44 after the county auditor certifies assessed value as described in this section.

Not later than December 31 of each year, the county auditor shall send a certified statement, under the seal of the board of county

commissioners, to the fiscal officer of each political subdivision of the county and to the department of local government finance. The certified statement must list any adjustments to the amount of the reduction under this subsection and the information submitted under section 1 of this chapter that are necessary as the result of processing homestead credit applications and deduction applications that are filed after the county auditor certifies assessed value as described in this section. The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for a calendar year under subsection (d) may not exceed ~~the lesser of:~~

~~(1)~~ two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year. ~~or~~

~~(2) the total amount of reductions in the assessed value of tangible property subject to assessment in the taxing unit that:~~

~~(A) applied for the assessment date in the immediately preceding year; and~~

~~(B) resulted from successful appeals of the assessed value of the property.~~

(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:

(1) county property tax assessment board of appeals;

(2) Indiana board; or

(3) Indiana tax court;

as evidence that a particular parcel has been improperly assessed.

SECTION 40. IC 6-1.1-20.9-2, AS AMENDED BY P.L.224-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who ~~on March 1 of~~ **in** a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year. **With respect to real property or a mobile home or a manufactured home that is**

not assessed as real property, the individual must:

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under section 3 or 3.5 of this chapter.

(b) The amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 through 2005	20%
2006	28%
2007 and thereafter	20%

However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the **county** assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under **section 3 or 3.5 of** this chapter. **The county assessor shall update the information not later than December 31 of that year.**

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

(1) an individual uses the residence as the individual's principal place of residence;

(2) the residence is located in Indiana;

(3) the individual has a beneficial interest in the taxpayer;

(4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 41. IC 6-1.1-20.9-3, AS AMENDED BY P.L.183-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. (a) **Except as provided in section 3.5 of this chapter and subject to section 7 of this chapter,** an individual who desires to claim the credit provided by section 2 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement shall include the parcel number or key number of the real estate and the name of the city, town, or township in which the real estate is located. With respect to real property, the statement must be filed during the ~~twelve (12) months before June 11 of the~~ year prior to the first year for which the person wishes to obtain the credit for the homestead. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of the first year for which the individual wishes to obtain the credit. The statement may be filed in person or by mail. If mailed, the

mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the credit is allowed.

(b) The certified statement referred to in subsection (a) shall contain the name of any other county and township in which the individual owns or is buying real property.

(c) If an individual who is receiving the credit provided by this chapter changes the use of the individual's real property, so that part or all of that real property no longer qualifies for the homestead credit provided by this chapter, the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use within sixty (60) days after the date of that change. An individual who changes the use of the individual's real property and fails to file the statement required by this subsection is liable for the amount of the credit the individual was allowed under this chapter for that real property.

(d) An individual who receives the credit provided by section 2 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the credit in the following year is not required to file a statement to reapply for the credit following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of property in a divorce decree.

SECTION 42. IC 6-1.1-20.9-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 3.5. (a) A sales disclosure form under IC 6-1.1-5.5:**

(1) that is submitted:

(A) as a paper form; or

(B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead assessed as real property;

(2) that is accurate and complete;

(3) that is approved by the county assessor as eligible for filing with the county auditor; and

(4) that is filed:

(A) as a paper form; or

(B) electronically;

with the county auditor by or on behalf of the purchaser; constitutes an application for the credit provided by section 2 of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

(b) Except as provided in subsection (c), if:

(1) the county auditor receives in a calendar year a sales disclosure form that meets the requirements of subsection (a); and

(2) the homestead for which the sales disclosure form is submitted is otherwise eligible for the credit under this chapter;

the county auditor shall apply the credit under this chapter to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies under subsection (a) and in any later year in which the homestead remains eligible for the credit.

(c) Subsection (b) does not apply if the county auditor, after receiving a sales disclosure form from or on behalf of a purchaser under subsection (a)(4), determines that the homestead is ineligible for the credit under this chapter.

SECTION 43. IC 6-1.1-20.9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 4. (a) The auditor of a county (referred to in this section as the "first county") with whom:

(1) a credit statement is filed under section 3 of this chapter; **or**

(2) a sales disclosure form is filed under section 3.5 of this chapter;

shall immediately prepare and transmit a copy of the statement **or form** to the auditor of any other county (referred to in this section as the "second county") if the individual who claims the credit **or files the form** owns or is buying real property located in the second county.

(b) The county auditor of the second county shall note on the copy

of the statement **or form** whether or not the individual has claimed ~~a~~ **the** credit for the current year ~~under section 2 of this chapter~~ for a homestead located in the second county. The auditor shall then return the copy to the auditor of the first county.

SECTION 44. IC 6-1.1-20.9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 5. (a) Each year, the county auditor shall:

(1) place the original copies of all credit statements filed under section 3 of this chapter **and all sales disclosure forms filed under section 3.5 of this chapter** in alphabetical order by townships; and ~~he shall,~~

(2) without regard to townships, place ~~the~~ **any** duplicate copies for the entire county in alphabetical order.

(b) The auditor shall ascertain from the alphabetical files whether or not more than one (1) statement **or sales disclosure form** has been filed by the same individual.

(c) The county auditor may not grant an individual a credit under section 2 of this chapter if:

(1) the individual, for the same year, claims the credit:

(A) on two (2) or more different statements;

(B) by submitting two (2) or more different sales disclosure forms; or

(C) through any combination of statements and sales disclosure forms; and

(2) **as a result** the ~~statements claim the~~ credit **is claimed** for ~~different property.~~ **more than one (1) homestead.**

SECTION 45. IC 6-1.1-20.9-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 7. (a) Subject to subsections (b) and (c), a credit under this chapter applies for the property taxes due and payable based on the assessment for an assessment date, regardless of whether with respect to the real property or mobile home or manufactured home not assessed as real property:**

(1) the title is conveyed one (1) or more times; or

(2) one (1) or more contracts to purchase are entered into;

after that assessment date and on or before the next succeeding assessment date.

(b) Subsection (a) applies:

(1) only if the title holder or the contract buyer on that next succeeding assessment date is eligible for the credit for property taxes due and payable based on the assessment for that next succeeding assessment date; and

(2) regardless of whether:

(A) one (1) or more grantees of title under subsection (a)(1); or

(B) one (1) or more contract purchasers under subsection (a)(2);

files a statement under this chapter to claim the credit.

(c) A credit applies under subsection (a) for only one (1) year. The requirements of this chapter for filing a statement to apply for a credit under this chapter apply to subsequent years.

(d) If a person files a statement in a calendar year to claim a credit under this chapter with respect to real property, the credit applies for the property taxes due and payable in the immediately succeeding calendar year.

(e) If a person files a statement in a twelve (12) month filing period designated under this chapter to claim a credit under this chapter with respect to a mobile home or a manufactured home not assessed as real property, the credit applies to the property taxes due and payable in the immediately succeeding twelve (12) month period.

SECTION 46. IC 6-1.1-21-4, AS AMENDED BY P.L.234-2007, SECTION 297, AND AS AMENDED BY P.L.219-2007, SECTION 62, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter.

This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or, *except as provided in section 9 of this chapter,* receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state,

adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (g) and subject to subsection (h), the department shall not distribute under subsection (b) and section 10 of this chapter a percentage, determined by the department, of the money that would otherwise be distributed to the county under subsection (b) and section 10 of this chapter if:

(1) **subject to subsection (j),** by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section;

(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure ~~*forms*~~ *form data* under ~~*IC 6-1.1-5.5-3(b), IC 6-1.1-5.5-3(h),*~~ **IC 6-1.1-5.5-3(c);**

(5) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(6) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(7) the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

(f) Except as provided in subsection (i), money not distributed for the reasons stated in subsection (e) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(g) The restrictions on distributions under subsection (e) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

(j) The county auditor is considered to have complied with the requirement of subsection (e)(1) regardless of whether the information included in the certified statement required to be sent by the county auditor under IC 6-1.1-17-1 changes after the

deadline for sending the statement as a result of credit and deduction applications filed under IC 6-1.1-20.9-3.5 and IC 6-1.1-12-44.

SECTION 47. IC 36-7-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 35. Property Maintenance Areas

Sec. 1. As used in this chapter, "landlord" has the meaning set forth in IC 32-31-3-3.

Sec. 2. As used in this chapter, "maintenance activity" means the remodeling, repair, or improvement of property as defined by a municipality in a PMA ordinance adopted under section 9 of this chapter.

Sec. 3. As used in this chapter, "PMA certification" means a certification provided under section 9 of this chapter for qualified expenditures made on property in a property maintenance area.

Sec. 4. As used in this chapter, "PMA ordinance" means an ordinance adopted by the fiscal body of a municipality under section 9 of this chapter.

Sec. 5. (a) As used in this chapter, "property" means a building or structure:

(1) assessed as real property under IC 6-1.1-4; and

(2) listed in a PMA ordinance.

(b) The term does not include land.

Sec. 6. As used in this chapter, "property maintenance area" means an area established by a municipality under section 9 of this chapter.

Sec. 7. As used in this chapter, "qualified expenditure" means an expenditure made by a taxpayer for maintenance activities that qualify the taxpayer for a credit under IC 6-3.1-32.5 as determined under a PMA ordinance.

Sec. 8. As used in this chapter, "residentially distressed area" means an area:

(1) that has a significant number of:

(A) dwellings (as defined in IC 6-1.1-20.9-1) within the area that are:

(i) not permanently occupied;

(ii) subject to an order issued under IC 36-7-9; or

(iii) evidencing significant building deficiencies; or

(B) vacant parcels of real property (as defined by IC 6-1.1-1-15); or

(2) that has experienced a net loss in the number of dwellings (as defined in IC 6-1.1-20.9-1).

Sec. 9. (a) The fiscal body of a municipality located in a county may adopt an ordinance establishing a property maintenance area to provide certification of qualified expenditures on property in the property maintenance area. The ordinance shall be referred to as a PMA ordinance. The boundaries of a property maintenance area may not exceed five percent (5%) of the total land area of the municipality. The property maintenance area established under this section must be either:

(1) a residentially distressed area; or

(2) an area:

(A) that contains the types of property listed or defined in the PMA ordinance; and

(B) where the median assessed value of each type of property under clause (A) within the property maintenance area does not exceed the median assessed value for that type of property throughout the municipality.

(b) A municipality that adopts a PMA ordinance may provide grants to individuals who receive a PMA certification under this chapter. The amount of a grant provided under this subsection may not exceed the lesser of:

(1) fifty percent (50%) of the qualified expenditures certified in the PMA certification; or

(2) one thousand five hundred dollars ($1,500).

Sec. 10. A PMA ordinance adopted under section 9 of this chapter must be in effect for at least one (1) year and not more than ten (10) years and must include the following:

(1) The geographic boundaries of the property maintenance area.

(2) A list or definition of:

(A) the types of property; and

(B) the maintenance activities;

that may entitle a taxpayer to a credit under IC 6-3.1-32.5.

(3) The eligibility qualifications for a contractor to perform maintenance activities within the property maintenance area.

(4) The criteria for a landlord to be eligible for a PMA certification.

(5) The amount of the qualified expenditures that may be certified under this chapter.

Sec. 11. The list or definition of maintenance activities determined by the municipality under section 10(2) of this chapter may include installing, repairing, or upgrading:

(1) roofing;

(2) siding;

(3) a furnace;

(4) a window or windows;

(5) paint;

(6) a foundation;

(7) electrical wiring; or

(8) plumbing.

Sec. 12. The eligibility qualifications established under section 10(3) of this chapter:

(1) may not prohibit or disallow certification of qualified expenditures made by the owner of property for maintenance activities performed by the owner on the property if all other requirements and qualifications are satisfied for obtaining a PMA certification under this chapter; and

(2) may require a contractor to submit to the fiscal body of the municipality:

(A) proof that the contractor holds a valid contractor's license;

(B) any complaints filed against the contractor with a better business bureau or a federal, state, or local unit of government; and

(C) financial statements or business plans of the contractor.

Sec. 13. The criteria established under section 10(4) of this chapter must require a landlord to:

(1) report any violations relating to any health or housing codes applicable to any property in which the landlord has an interest;

(2) submit a plan, before receiving a PMA certification under this chapter, to correct all violations reported under subdivision (1); and

(3) repay to the municipality the amount of any grants awarded under this chapter, if the landlord does not correct all violations reported under subdivision (1) within a reasonable time, as determined by the municipality.

Sec. 14. If a person:

(1) makes a qualified expenditure on the person's property in a property maintenance area; and

(2) meets all the other requirements set forth in the PMA ordinance adopted by the municipality where the person's property is located;

the person is entitled to a PMA certification under this chapter.

SECTION 48. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-1.1-12-1, IC 6-1.1-12-2, IC 6-1.1-12-3, IC 6-1.1-12-4, IC 6-1.1-12-9, IC 6-1.1-12-10.1, IC 6-1.1-12-11, IC 6-1.1-12-12, IC 6-1.1-12-13, IC 6-1.1-12-14, IC 6-1.1-12-15, IC 6-1.1-12-16, IC 6-1.1-12-17, IC 6-1.1-12-17.4, IC 6-1.1-12-17.5, IC 6-1.1-12-17.8, IC 6-1.1-12-18, IC 6-1.1-12-20, IC 6-1.1-12-22, IC 6-1.1-12-24, IC 6-1.1-12-27.1, IC 6-1.1-12-30, IC 6-1.1-12-31, IC 6-1.1-12-33, IC 6-1.1-12-34, IC 6-1.1-12-34.5, IC 6-1.1-12-35.5, IC 6-1.1-12-38, IC 6-1.1-17-0.5, IC 6-1.1-20.9-2, IC 6-1.1-20.9-3, IC 6-1.1-20.9-4, and IC 6-1.1-20.9-5, all as amended by this act, and IC 6-1.1-12-44, IC 6-1.1-12-45, IC 6-1.1-20.9-3.5, and IC 6-1.1-20.9-7, all as added by this act, apply only to property taxes first due and payable after 2008.**

SECTION 49. [EFFECTIVE JULY 1, 2008] **IC 6-1.1-5.5-1, IC 6-1.1-5.5-2, IC 6-1.1-5.5-3, IC 6-1.1-5.5-4, IC 6-1.1-5.5-5, IC 6-1.1-5.5-6, IC 6-1.1-5.5-10, and IC 6-1.1-5.5-12, all as amended by this act, apply only to a conveyance (as defined in IC 6-1.1-5.5-1, as amended by this act) that occurs after June 30, 2008.**

SECTION 50. [EFFECTIVE JULY 1, 2008] **IC 6-1.1-5.5-10, as amended by this act, applies to crimes committed after June 30, 2008.**

SECTION 51. [EFFECTIVE UPON PASSAGE] **(a) Before July 1, 2008, the department of local government finance shall prescribe a sales disclosure form under IC 6-1.1-5.5-5, as amended by this act, that reflects the requirements of this act.**

(b) This SECTION expires July 1, 2008.

SECTION 52. [EFFECTIVE JANUARY 1, 2008] **(a) This**

SECTION applies to a taxpayer notwithstanding the following:

(1) IC 6-1.1-3-7.5.

(2) IC 6-1.1-10-31.1.

(3) IC 6-1.1-11.

(4) 50 IAC 4.2-2.

(5) 50 IAC 4.2-3.

(6) 50 IAC 4.2-11.

(7) 50 IAC 4.2-12.

(8) 50 IAC 4.2-15-11.

(9) 50 IAC 16.

(b) This SECTION applies:

(1) to an assessment date occurring after December 31, 2003, and before January 1, 2007; and

(2) for property taxes first due and payable after December 31, 2004, and before January 1, 2008.

(c) As used in this SECTION, "taxpayer" refers to a taxpayer who:

(1) filed an original personal property tax return under IC 6-1.1-3-7 for an assessment date described in subsection (b); and

(2) submits for filing, after December 31, 2007, and before March 1, 2008, an amended personal property tax return and a Form 103-W for an assessment date described in subsection (b).

(d) An amended personal property tax return submitted for filing by a taxpayer in person or in any other manner consistent with IC 6-1.1-36-1.5 for an assessment date described in subsection (b):

(1) must be allowed; and

(2) is considered to have been timely filed.

(e) A taxpayer is entitled to the exemptions for tangible personal property claimed on:

(1) Schedule B of the amended returns; and

(2) each Form 103-W filed with the amended returns;

filed under this SECTION.

(f) A notice of increased assessed value issued by a township assessor with respect to tangible personal property that is subject to an amended return filed under this SECTION is considered withdrawn and nullified.

(g) IC 6-1.1-37-7, IC 6-1.1-37-9, and IC 6-1.1-37-10 do not apply to any additional personal property taxes owed by a taxpayer as the result of filing an amended return under this SECTION.

(h) A taxpayer is not entitled to a refund with respect to an amended return filed by a taxpayer under this SECTION.

(i) This SECTION expires July 1, 2009.

SECTION 53. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-20.9-1 apply throughout this SECTION.**

(b) The department of local government finance shall adopt rules under IC 4-22-2 before January 1, 2009, to establish guidelines to enforce the application of the homestead credit only to an individual's principal place of residence as required by IC 6-1.1-20.9-1(2). The rules must establish the means for the county auditor to ascertain whether:

(1) an individual who claims a homestead credit under IC 6-1.1-20.9:

(A) owns;

(B) is buying under contract; or

(C) has a beneficial interest in a taxpayer that owns or is buying under contract;

a dwelling outside Indiana; and

(2) the dwelling referred to in subdivision (1) is the individual's principal place of residence.

(c) This SECTION expires January 1, 2009.

SECTION 54. **An emergency is declared for this act.**

P.L.145-2008
[H.1359. Approved March 24, 2008.]

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-6-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) As used in this chapter, "residential real estate transaction" includes:**

(1) mortgage lending practices;

(2) real estate appraisals; and

(3) other practices;

performed or undertaken in connection with a single family residential mortgage transaction or the refinancing of a single family residential mortgage transaction.

(b) Not later than July 1, 2008, the unit shall:

(1) establish a new toll free telephone number; or

(2) designate an existing toll free telephone number operated or sponsored by the office of the attorney general;

to receive calls from persons having information about suspected fraudulent residential real estate transactions.

(c) The toll free telephone number required by this section shall be staffed by:

(1) employees or investigators of the unit who have knowledge of the laws concerning residential real estate transactions;

(2) representatives of any of the entities described in section 4(a)(8) through 4(a)(10) of this chapter who have knowledge of the laws concerning residential real estate transactions; or

(3) a combination of persons described in subdivisions (1) and (2).

The attorney general shall designate persons to staff the toll free telephone number as required by this subsection.

(d) Unless otherwise prohibited by law, the unit shall ensure that

information received from callers to the toll free telephone number is shared with any entity described in section 4 of this chapter that has jurisdiction over the matter not later than fifteen (15) business days after the date the unit determines the appropriate entity to which the information should be referred. The unit shall establish uniform procedures for:

(1) responding to calls received;

(2) protecting:

(A) the anonymity of callers who wish to report information anonymously; or

(B) the identity of callers who request that their identity not be disclosed;

(3) documenting and verifying information reported by callers; and

(4) transmitting reported information to the appropriate entities described in section 4 of this chapter within the time required by this subsection.

(e) The unit shall publicize the availability of the toll free telephone number established under this section in a manner reasonably designed to reach members of the public.

SECTION 2. IC 4-6-12-8, AS AMENDED BY P.L.181-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The unit shall cooperate with the Indiana housing and community development authority in the development and implementation of the home ownership education programs established under ~~IC 5-20-1-4(f).~~ **IC 5-20-1-4(d).**

SECTION 3. IC 5-20-1-4, AS AMENDED BY P.L.99-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans ~~to sponsors of~~ **for** multiple family residential housing ~~that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities~~ **under terms that are** approved

by the authority;

(2) to make or participate in the making of mortgage loans ~~to sponsors of~~ **for** multiple family residential housing ~~that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities~~ **under terms that are** approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its

operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to

accomplish the purposes of this chapter;
(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
(18) to sue and be sued in its own name, plead and be impleaded;
(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;
(20) to adopt an official seal and alter the same at pleasure;
(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;
(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;
(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;
(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;
(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals;

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall ~~structure and administer any program conducted~~ **ensure that a mortgage loan acquired by the authority** under subsection (a)(3) or **made by a mortgage lender with funds provided by the authority under subsection** (a)(4) ~~in order to assure that no mortgage loan shall~~ **is not** knowingly ~~be~~ made to a person whose adjusted family income, ~~shall exceed~~ **as determined by the authority, exceeds** one hundred twenty-five percent (125%) of the median income for the geographic area ~~within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.~~ **involved. However, if the authority determines that additional encouragement is needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any program conducted under subsection (a)(3) or (a)(4), the authority shall consider:**

(1) the appropriate geographic area in which to measure income levels; and

(2) the appropriate method of calculating low income, moderate income, or median income levels including:

(A) sources of;

(B) exclusions from; and

(C) adjustments to;

income.

~~(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and~~

~~other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:~~

~~(1) each mortgage loan is made as a first mortgage loan for real property:~~

~~(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;~~

~~(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);~~

~~(C) to be used as the purchaser's principal residence; and~~

~~(D) for which the purchaser has made a down payment in an amount determined by the authority;~~

~~(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);~~

~~(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and~~

~~(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.~~

~~(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:~~

~~(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under subsection (c); and~~

~~(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:~~

~~(A) been a full-time state employee, teacher, judge, police officer, or firefighter;~~

~~(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;~~

~~(C) been receiving retirement benefits from the retirement plan; or~~

~~(D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.~~

~~(c)~~ **(c)** The authority, when directed by the governor, shall

administer programs and funds under 42 U.S.C. 1437 et seq.

~~(f)~~ **(d)** The authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

SECTION 4. IC 5-20-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) As used in this section, ~~"person with a disability" means a person who, by reason of physical, mental, or emotional defect or infirmity, whether congenital or acquired by accident, injury, or disease, is totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.~~ **"special needs populations" includes the following:**

(1) Persons with physical or developmental disabilities.

(2) Persons with mental impairments.

(3) Single parent households.

(4) Victims of domestic violence.

(5) Abused children.

(6) Persons with chemical addictions.

(7) Homeless persons.

(8) The elderly.

(b) As used in this section, "qualified building" means a building:

(1) that is used or will be used to provide residential housing for ~~persons with disabilities,~~ **special needs populations;** and

(2) for which a taxpayer is eligible to claim a low income housing credit under 26 U.S.C. 42.

(c) Subject to subsection (d), the authority shall allocate to qualified buildings at least ten percent (10%) of the total dollar amount of federal low income housing credits allocated to the authority under 26 U.S.C. 42. The authority shall allocate credits under this section based on the proportionate amount of a qualified building that is used to provide residential housing for ~~persons with disabilities,~~ **special needs populations,** as determined by the authority.

(d) The authority shall hold available the allocation made under subsection (c) for qualified buildings through October 31 of each calendar year. Beginning November 1 of each calendar year, any part

of the allocation that remains unassigned shall be available for any appropriate use under 26 U.S.C. 42.

SECTION 5. IC 5-20-1-8, AS AMENDED BY P.L.235-2005, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Subject to the approval of the ~~governor,~~ **public finance director appointed under IC 4-4-11-9,** the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ **the person** had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest,

and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions and subject to the approval of the ~~governor,~~ **public finance director appointed under IC 4-4-11-9,** issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(d) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

SECTION 6. IC 5-20-1-18, AS AMENDED BY P.L.235-2005, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the ~~governor,~~ **public finance director appointed under IC 4-4-11-9,** the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

SECTION 7. IC 5-20-1-27, AS AMENDED BY P.L.181-2006,

SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under section ~~4(f)~~ **4(d)** of this chapter. The account is administered by the authority.

(b) The home ownership education account consists of:

(1) fees collected under IC 24-9-9; **and**

(2) civil penalties imposed and collected under:

(A) IC 6-1.1-12-43(g)(2)(B); or

(B) IC 27-7-3-15.5(e).

(c) The expenses of administering the home ownership education account shall be paid from money in the ~~fund.~~ **account.**

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

SECTION 8. IC 5-20-3-4, AS AMENDED BY P.L.181-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A mutual housing association may be established as a nonprofit corporation incorporated under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to prevent and eliminate neighborhood deterioration and to preserve neighborhood stability by:

(1) providing high quality, long term housing for families of low and moderate income; and

(2) affording community and residential involvement in the provision of that housing.

(b) The articles of incorporation of a mutual housing association ~~must meet the requirements of the Indiana housing and community development authority under IC 5-20-1-6 and~~ must be approved by the authority.

(c) The articles of incorporation of a mutual housing association must include a provision that provides that if the mutual housing association dissolves, is involved in a bankruptcy proceeding, or otherwise disposes of its physical properties, the association may only transfer the assets to another entity that provides high quality long term housing for families of low and moderate income.

SECTION 9. IC 6-1.1-12-43 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43. (a) For purposes of this section:

(1) "benefit" refers to:

(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, or 34 of this chapter; or

(B) the homestead credit under IC 6-1.1-20.9-2;

(2) "closing agent" means a person that closes a transaction;

(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) This subsection applies to a transaction that is closed after December 31, 2009. In addition to providing the customer the form described in subsection (c) before closing the transaction, a closing agent shall do the following as soon as possible after the closing, and within the time prescribed by the department of insurance under IC 27-7-3-15.5:

(1) To the extent determinable, input the information described in IC 27-7-3-15.5(c)(2) into the system maintained by the department of insurance under IC 27-7-3-15.5.

(2) Submit the form described in IC 27-7-3-15.5(c) to the data base described in IC 27-7-3-15.5(c)(2)(D).

~~(e)~~ **(f)** A closing agent to which this section applies shall document ~~its~~ **the closing agent's** compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

~~(f)~~ **(g) Subject to IC 27-7-3-15.5(d),** a closing agent is subject to a civil penalty of twenty-five dollars ($25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into:

(A) the property tax replacement fund, **if the closing agent fails to comply with subsection (b); or**

(B) the home ownership education account established by IC 5-20-1-27, if the closing agent fails to comply with subsection (e) in a transaction that is closed after December 31, 2009.

(h) A closing agent is not liable for any other damages claimed by a customer because of:

(1) the closing agent's mere failure to provide the appropriate document to the customer **under subsection (b); or**

(2) with respect to a transaction that is closed after December 31, 2009, the closing agent's failure to input the information or submit the form described in subsection (e).

~~(g)~~ **(i)** The state agency that has administrative jurisdiction over a closing agent shall:

(1) examine the closing agent to determine compliance with this section; and

(2) impose and collect penalties under subsection ~~(f).~~ **(g).**

SECTION 10. IC 23-2-5-3, AS AMENDED BY P.L.230-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to:

(1) engage in origination activities on behalf of a licensee; **or**

(2) act as a principal manager on behalf of a licensee.

~~(b) As used in this chapter, "creditor" means a person:~~

~~(1) that loans funds of the person in connection with a loan; and~~

~~(2) to whom the loan is initially payable on the face of the note or contract evidencing the loan.~~

~~(c)~~ **(b)** As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

~~(d)~~ **(c)** As used in this chapter, "licensee" means a person that is issued a license under this chapter.

~~(e)~~ **(d)** As used in this chapter, "loan broker" means any person who, in return for any consideration from any source procures, attempts to procure, or assists in procuring, a loan from a third party or any other person, whether or not the person seeking the loan actually obtains the loan. "Loan broker" does not include:

(1) any supervised financial organization (as defined in IC 24-4.5-1-301(20)), including a bank, savings bank, trust company, savings association, or credit union;

(2) any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making

consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(3) any insurance company; ~~or~~

(4) any person arranging financing for the sale of the person's product; **or**

(5) a creditor that is licensed under IC 24-4.4-2-402.

~~(f)~~ **(e)** As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

~~(g)~~ **(f)** As used in this chapter, "origination activities" means communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.

~~(h)~~ **(g)** As used in this chapter, "originator" means a person engaged in origination activities. The term "originator" does not include a person who performs origination activities for any entity that is not a loan broker under subsection ~~(c).~~ **(d).**

~~(i)~~ **(h)** As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

~~(j)~~ **(i)** As used in this chapter, "registrant" means an individual who is registered:

(1) to engage in origination activities under this chapter; or

(2) as a principal manager.

~~(k)~~ **(j)** As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls ten percent (10%) or more of the equity interest in a loan broker licensed or required to be licensed under this chapter, regardless of whether the person owns or controls the equity interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

~~(l)~~ **(k)** As used in this chapter, "principal manager" means an individual who:

(1) has at least three (3) years of experience:

(A) as a loan broker; or

(B) in financial services;

that is acceptable to the commissioner; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a licensee.

(l) As used in this chapter, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

(m) As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

(n) As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

(2) a driver's license number;

(3) a state identification number; or

(4) an account number;

are accessible as part of the personal information.

SECTION 11. IC 23-2-5-4, AS AMENDED BY P.L.230-2007,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **A person may not engage in the loan brokerage business in Indiana unless the person first obtains a license from the commissioner.** Any person desiring to engage or continue in the loan brokerage business shall apply to the commissioner for a license under this chapter.

(b) **An individual may not perform origination activities in Indiana on behalf of a person licensed or required to be licensed under this chapter unless the individual first obtains a certificate of registration from the commissioner.** An individual desiring ~~to be employed by a licensee~~ to engage in origination activities **on behalf of a person licensed or required to be licensed under this chapter** shall apply to the commissioner for registration under this chapter.

(c) **An individual may not act as a principal manager on behalf of a person licensed or required to be licensed under this chapter unless the individual first obtains a certificate of registration from the commissioner.** Any individual desiring to ~~be employed by a licensee~~ **act** as a principal manager **on behalf of a person licensed or required to be licensed under this chapter** shall apply to the commissioner for registration under this chapter.

(d) The commissioner may request evidence of compliance with this section at any of the following times:

(1) The time of application for an initial:

(A) license; or

(B) certificate of registration.

(2) The time of renewal of a license or certificate of registration.

(3) Any other time considered necessary by the commissioner.

(e) For purposes of subsection (d), evidence of compliance with this section must include a criminal background check, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation.

SECTION 12. IC 23-2-5-5, AS AMENDED BY P.L.230-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) An application for license or renewal of a license must contain:

(1) consent to service of process under subsection (h);

(2) evidence of the bond required in subsection (e);

(3) an application fee of four hundred dollars ($400), plus two hundred dollars ($200) for each ultimate equitable owner;

(4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment, unless waived by the commissioner under subsection ~~(f);~~ **(i);**

(5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;

(6) the name and registration number for each originator to be employed by the licensee;

(7) the name and registration number for each principal manager; and

(8) for each ultimate equitable owner, the following information:

~~(1)~~ **(A)** The name of the ultimate equitable owner.

~~(2)~~ **(B)** The address of the ultimate equitable owner, including the home address of the ultimate equitable owner if the ultimate equitable owner is an individual.

~~(3)~~ **(C)** The telephone number of the ultimate equitable owner, including the home telephone number if the ultimate equitable owner is an individual.

~~(4)~~ **(D)** The ultimate equitable owner's Social Security number and date of birth, if the ultimate equitable owner is an individual.

(b) An application for registration as an originator shall be made on a registration form prescribed by the commissioner. The application must include the following information for the individual that seeks to be registered as an originator:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) licensee; or

(B) applicant for licensure;

for whom the individual seeks to be employed as an originator.

(6) Consent to service of process under subsection (h).

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) An application fee of one hundred dollars ($100).

(9) All registration numbers previously issued to the individual under this chapter, if applicable.

(c) An application for registration as a principal manager shall be made on a registration form prescribed by the commissioner. The application must include the following information for the individual who seeks to be registered as a principal manager:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) licensee; or

(B) applicant for licensure;

for whom the individual seeks to be employed as a principal manager.

(6) Consent to service of process under subsection (h).

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) Evidence that the individual has at least three (3) years of experience in the:

(A) loan brokerage; or

(B) financial services;

business.

(9) An application fee of two hundred dollars ($200).

(10) All registration numbers previously issued to the individual, if applicable.

(d) The commissioner shall require an applicant for registration as:

(1) an originator under subsection (b); or

(2) a principal manager under subsection (c);

to pass a written examination prepared and administered by the commissioner or an agent appointed by the commissioner.

(e) A licensee must maintain a bond satisfactory to the commissioner in the amount of fifty thousand dollars ($50,000), which shall be in favor of the state and shall secure payment of damages to

any person aggrieved by any violation of this chapter by the licensee.

(f) The commissioner shall issue a license and license number to an applicant that meets the licensure requirements of this chapter. Whenever the registration provisions of this chapter have been complied with, the commissioner shall issue a certificate of registration and registration number authorizing the registrant to:

(1) engage in origination activities; or

(2) act as a principal manager;

whichever applies.

(g) Licenses and initial certificates of registration issued by the commissioner are valid until January 1 of the second year after issuance.

(h) Every applicant for licensure or registration or for renewal of a license or a registration shall file with the commissioner, in such form as the commissioner by rule or order prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

(i) Upon good cause shown, the commissioner may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

(j) Whenever an initial or a renewal application for a license or registration is denied or withdrawn, the commissioner shall retain the initial or renewal application fee paid.

(k) The commissioner shall require each:

(1) equitable owner; ~~and~~

(2) individual described in subsection (a)(4); and

~~(2)~~ **(3)** applicant for registration as:

(A) an originator; or

(B) a principal manager;

to ~~undergo~~ **submit fingerprints for** a **national** criminal **history** background check ~~at the expense of the~~ **(as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for use by the commissioner in determining whether the equitable owner, the individual described in subsection (a)(4), or the applicant should be denied licensure or registration under this chapter for any reason**

set forth in section 10(c) of this chapter. The equitable owner, **individual described in subsection (a)(4),** or applicant **shall pay any fees or costs associated with the fingerprints and background check required under this subsection. The commissioner may not release the results of a background check described in this subsection to any private entity.**

~~(l) The commissioner may check the qualifications, background, licensing status, and service history of each:~~

~~(1) equitable owner; and~~

~~(2) applicant for registration as:~~

~~(A) an originator; or~~

~~(B) a principal manager;~~

~~by accessing, upon availability, a multistate automated licensing system for mortgage brokers and originators, including the National Mortgage Licensing Database proposed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The equitable owner or the applicant shall pay any fees or costs associated with a check conducted under this subsection.~~

SECTION 13. IC 23-2-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A licensee may not continue engaging in the loan brokerage business unless the licensee's license is renewed biennially. A registrant may not continue:

(1) engaging in origination activities; **or**

(2) acting as a principal manager;

unless the registrant's certificate of registration is renewed biennially. A licensee shall renew its license ~~and the certificates of registration of its registrant employees~~ by filing with the commissioner, at least thirty (30) days before the expiration of the ~~registration,~~ **license,** an application containing any information the commissioner may require to indicate any material change from the information contained in the applicant's original application or any previous application. **A registrant may renew the registrant's certificate of registration by filing with the commissioner, at least thirty (30) days before the expiration of the registration, an application containing any information the commissioner may require to indicate any material change from the information contained in the applicant's original application or any previous application.**

SECTION 14. IC 23-2-5-10, AS AMENDED BY P.L.230-2007,

SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Whenever it appears to the commissioner that a person has engaged in or is about to engage in an act or a practice constituting a violation of this chapter or a rule or an order under this chapter, the commissioner may investigate and may issue, with a prior hearing if there exists no substantial threat of immediate irreparable harm or without a prior hearing, if there exists a substantial threat of immediate irreparable harm, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter.

(b) Upon the issuance of an order or notice without a prior hearing by the commissioner under subsection (a), the commissioner shall promptly notify the respondent and, if the subject of the order or notice is a registrant, the licensee for whom the registrant is employed:

(1) that the order or notice has been issued;

(2) of the reasons the order or notice has been issued; and

(3) that upon the receipt of a written request the matter will be set down for a hearing to commence within fifteen (15) business days after receipt of the request unless the respondent consents to a later date.

If a hearing is not requested and not ordered by the commissioner, an order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

(c) The commissioner may deny **an application for an initial or a renewal license or registration, and may** suspend or revoke the license of a licensee or the registration of a registrant if **the applicant,** the licensee, the registrant, or an ultimate equitable owner of **an applicant or of** a licensee:

(1) fails to maintain the bond required under section 5 of this chapter;

(2) has, within the most recent ten (10) years:

(A) been the subject of an adjudication or a determination by:

(i) a court with jurisdiction; or

(ii) an agency or administrator that regulates securities, commodities, banking, financial services, insurance, real estate, or the real estate appraisal industry;

in Indiana or in any other jurisdiction; and

(B) been found, after notice and opportunity for hearing, to have violated the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal laws of Indiana or any other jurisdiction;

(3) has:

(A) been denied the right to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry; or

(B) had the person's authority to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry revoked or suspended;

by Indiana or by any other state, federal, or foreign governmental agency or self regulatory organization;

(4) is insolvent;

(5) has violated any provision of this chapter;

(6) has knowingly filed with the commissioner any document or statement that:

(A) contains a false representation of a material fact;

(B) fails to state a material fact; or

(C) contains a representation that becomes false after the filing but during the term of a license or certificate of registration as provided in subsection (i);

(7) has:

(A) been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime involving fraud or deceit; or

(B) had a felony conviction (as defined in IC 35-50-2-1(b)) within five (5) years before the date of the application, renewal, or review;

(8) if the person is a licensee or principal manager, has failed to reasonably supervise the person's originators or employees to ensure their compliance with this chapter;

(9) is on the most recent tax warrant list supplied to the

commissioner by the department of state revenue; or

(10) has engaged in dishonest or unethical practices in the loan broker business, as determined by the commissioner.

(d) The commissioner may do either of the following:

(1) Censure:

(A) a licensee;

(B) an officer, a director, or an ultimate equitable owner of a licensee;

(C) a registrant; or

(D) any other person;

who violates or causes a violation of this chapter.

(2) Permanently bar any person described in subdivision (1) from being:

(A) licensed or registered under this chapter; or

(B) employed by or affiliated with a person licensed or registered under this chapter;

if the person violates or causes a violation of this chapter.

(e) The commissioner may not enter a final order:

(1) denying, suspending, or revoking the license of a licensee or the registration of a registrant; or

(2) imposing other sanctions;

without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law. However, the commissioner may by summary order deny, suspend, or revoke a license or certificate of registration pending final determination of any proceeding under this section or before any proceeding is initiated under this section. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that the summary order has been entered, of the reasons for the summary order, and that upon receipt by the commissioner of a written request from a party, the matter will be set for hearing to commence within fifteen (15) business days after receipt of the request. If no hearing is requested and none is ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

(f) IC 4-21.5 does not apply to a proceeding under this section.

(g) If a registrant seeks to transfer the registrant's registration to another licensee who desires to have the registrant engage in origination activities or serve as a principal manager, whichever applies, the registrant shall, before the registrant conducts origination activities or serves as a principal manager for the new employer, submit to the commissioner, on a form prescribed by the commissioner, a registration application, as required by section 5 of this chapter.

(h) If the employment of a registrant is terminated, whether:

(1) voluntarily by the registrant; or

(2) by the licensee employing the registrant;

the licensee that employed the registrant shall, not later than five (5) days after the termination, notify the commissioner of the termination and the reasons for the termination.

(i) If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the commissioner of the change. The commissioner may revoke or refuse to renew the license or registration of any person who:

(1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or

(2) would not qualify for licensure or registration under this chapter as a result of the change in a material fact or statement.

SECTION 15. IC 23-2-5-11, AS AMENDED BY P.L.48-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The commissioner may do the following:

(1) Adopt rules under IC 4-22-2 to implement this chapter.

(2) Make investigations and examinations:

(A) in connection with any application for licensure or for registration of a licensee or registrant or with any license or certificate of registration already granted; or

(B) whenever it appears to the commissioner, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public.

(3) Charge as costs of investigation or examination all reasonable expenses, including a per diem prorated upon the salary of the commissioner or employee and actual traveling and hotel expenses. All reasonable expenses are to be paid by the party or parties under investigation or examination if the party has violated this chapter.
(4) Issue notices and orders, including cease and desist notices and orders, after making an investigation or examination under subdivision (2). The commissioner may also bring an action on behalf of the state to enjoin a person from violating this chapter. The commissioner shall notify the person that an order or notice has been issued, the reasons for it, and that a hearing will be set within fifteen (15) days after the commissioner receives a written request from the person requesting a hearing.
(5) Sign all orders, official certifications, documents, or papers issued under this chapter or delegate the authority to sign any of those items to a deputy.
(6) Hold and conduct hearings.
(7) Hear evidence.
(8) Conduct inquiries with or without hearings.
(9) Receive reports of investigators or other officers or employees of the state of Indiana or of any municipal corporation or governmental subdivision within the state.
(10) Administer oaths, or cause them to be administered.
(11) Subpoena witnesses, and compel them to attend and testify.
(12) Compel the production of books, records, and other documents.
(13) Order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner.
(14) Order that each witness appearing under the commissioner's order to testify before the commissioner shall receive the fees and mileage allowances provided for witnesses in civil cases.
(15) Provide interpretive opinions or issue determinations that the commissioner will not institute a proceeding or an action under this chapter against a specified person for engaging in a specified act, practice, or course of business if the determination is

consistent with this chapter. The commissioner may adopt rules to establish fees for individuals requesting an interpretive opinion or a determination under this subdivision. A person may not request an interpretive opinion or a determination concerning an activity that:

(A) occurred before; or

(B) is occurring on;

the date the opinion or determination is requested.

(16) Subject to subsection (f), designate a multistate automated licensing system and repository, established and operated by a third party, to serve as the sole entity responsible for:

(A) processing applications for:

(i) licenses and certificates of registration under this chapter; and

(ii) renewals of licenses and certificates of registration under this chapter; and

(B) performing other services that the commissioner determines are necessary for the orderly administration of the division's licensing and registration system.

A multistate automated licensing system and repository described in this subdivision may include the National Mortgage Licensing System established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The commissioner may take any action necessary to allow the division to participate in a multistate automated licensing system and repository.

(b) If a witness, in any hearing, inquiry, or investigation conducted under this chapter, refuses to answer any question or produce any item, the commissioner may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court determines that the witness, based upon the witness's privilege against self-incrimination, may properly refuse to answer or produce an item, the commissioner may make a written request that the court grant use immunity to the witness. Upon written request of the commissioner, the

court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

(1) any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and

(2) the witness must answer the questions asked and produce the items requested.

A grant of use immunity does not prohibit evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44-2-1. If a witness refuses to give the evidence after the witness has been granted use immunity, the court may find the witness in contempt.

(c) In any prosecution, action, suit, or proceeding based upon or arising out of this chapter, the commissioner may sign a certificate showing compliance or noncompliance with this chapter by any person. This shall constitute prima facie evidence of compliance or noncompliance with this chapter and shall be admissible in evidence in any action at law or in equity to enforce this chapter.

(d) If:

(1) a person disobeys any lawful:

(A) subpoena issued under this chapter; or

(B) order or demand requiring the production of any books, accounts, papers, records, documents, or other evidence or information as provided in this chapter; or

(2) a witness refuses to:

(A) appear when subpoenaed;

(B) testify to any matter about which the witness may be lawfully interrogated; or

(C) take or subscribe to any oath required by this chapter;

the circuit or superior court of the county in which the hearing, inquiry, or investigation in question is held, if demand is made or if, upon written petition, the production is ordered to be made, or the commissioner or a hearing officer appointed by the commissioner, shall compel compliance with the lawful requirements of the subpoena, order, or demand, compel the production of the necessary or required books, papers, records, documents, and other evidence and information, and compel any witness to attend in any Indiana county

and to testify to any matter about which the witness may lawfully be interrogated, and to take or subscribe to any oath required.

(e) If a person fails, refuses, or neglects to comply with a court order under this section, the person shall be punished for contempt of court.

(f) The commissioner's authority to designate a multistate automated licensing system and repository under subsection (a)(16) is subject to the following:

(1) The commissioner may not require any person exempt from licensure or registration under this chapter, or any employee or agent of an exempt person, to:

(A) submit information to; or

(B) participate in;

the multistate automated licensing system and repository.

(2) The commissioner may require a person required under this chapter to submit information to the multistate automated licensing system and repository to pay a processing fee considered reasonable by the commissioner.

SECTION 16. IC 23-2-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) Each loan broker agreement shall be given an account number. Each ~~licensee~~ **person licensed or required to be licensed under this chapter** shall keep and maintain the following records or their electronic equivalent:

(1) A file for each borrower or proposed borrower that contains the following:

(A) The name and address of the borrower or any proposed borrower.

(B) A copy of the signed loan broker agreement.

(C) A copy of any other papers or instruments used in connection with the loan broker agreement and signed by the borrower or any proposed borrower.

(D) If a loan was obtained for the borrower, the name and address of the creditor.

(E) If a loan is accepted by the borrower, a copy of the loan agreement.

(F) The amount of the loan broker's fee that the borrower has paid. If there is an unpaid balance, the status of any collection efforts.

(2) All receipts from or for the account of borrowers or any

proposed borrowers and all disbursements to or for the account of borrowers or any proposed borrowers, recorded so that the transactions are readily identifiable.

(3) A general ledger that shall be posted at least monthly, and a trial balance sheet and profit and loss statement prepared within thirty (30) days of the commissioner's request for the information.

(4) A sample of:

(A) all advertisements, pamphlets, circulars, letters, articles, or communications published in any newspaper, magazine, or periodical;

(B) scripts of any recording, radio, or television announcement; and

(C) any sales kits or literature;

to be used in solicitation of borrowers.

(b) The records listed in subsection (a) shall be kept for a period of two (2) years in the ~~licensee's~~ **loan broker's** principal office and must be separate or readily identifiable from the records of any other business that is conducted in the office of the loan broker.

(c) If a breach of the security of any records:

(1) maintained by a loan broker under this section; and

(2) containing the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers;

occurs, the loan broker is subject to the disclosure requirements under IC 24-4.9-3, unless the loan broker is exempt from the disclosure requirements under IC 24-4.9-3-4.

(d) A person who is:

(1) licensed or required to be licensed under this chapter; or

(2) registered or required to be registered under this chapter;

may not dispose of the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers without first shredding, incinerating, mutilating, erasing, or otherwise rendering the information illegible or unusable.

SECTION 17. IC 23-2-5-19, AS AMENDED BY P.L.230-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, 17, 18, and 21 of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

~~(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.~~

~~(4)~~ **(3)** Any broker-dealer, agent, or investment advisor registered under IC 23-19.

~~(5)~~ **(4)** Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

~~(6)~~ **(5)** Any community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing and community development authority established by IC 5-20-1-3.

~~(7)~~ **(6)** The Indiana housing and community development authority.

~~(8) Subject to subsection (e), and except as provided in subsection (f), any person authorized to:~~

~~(A) sell and service a loan for the Federal National Mortgage Association or the Federal Home Loan Mortgage Association;~~

~~(B) issue securities backed by the Government National Mortgage Association;~~

~~(C) make loans insured by the United States Department of Housing and Urban Development or the United States Department of Agriculture Rural Housing Service;~~

~~(D) act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs; or~~

~~(E) act as a correspondent of loans insured by the United States Department of Housing and Urban Development, if the person closes at least twenty-five (25) such insured loans in Indiana during each calendar year.~~

~~(9) Any person who is a creditor, or proposed to be a creditor, for any loan.~~

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

~~(e) A person claiming an exemption under subsection (a)(8) shall, as a condition to receiving or maintaining the exemption, file a notice every twenty-four (24) months on a form acceptable to the commissioner. The notice required under this subsection must:~~

~~(1) provide the name and business address of each originator employed by the person to originate loans in Indiana;~~

~~(2) include all other information required by the commissioner; and~~

~~(3) be accompanied by a fee of four hundred dollars ($400).~~

~~If any information included in a notice under this subsection changes after the notice has been submitted, the person shall provide written notice to the commissioner of the change. The commissioner's receipt of a notice under this subsection shall not be considered to be a determination or confirmation by the commissioner of the validity of the claimed exemption.~~

~~(f) An exemption described in subsection (a)(8) does not extend to:~~

~~(1) a subsidiary of the exempt person; or~~

~~(2) an unaffiliated third party.~~

~~An exemption that applies to a person under subsection (a)(8)(D) does not extend to a registered United States Department of Veterans Affairs~~

~~agent.~~

SECTION 18. IC 23-2-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. **(a)** A person shall not, in connection with a contract for the services of a loan broker, either directly or indirectly, do any of the following:

(1) Employ any device, scheme, or artifice to defraud.

(2) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they are made, not misleading.

(3) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

(4) Collect or solicit any consideration, except a bona fide third party fee, in connection with a loan until the loan has been closed.

(5) Receive any funds if the person knows that the funds were generated as a result of a fraudulent act.

(6) File or cause to be filed with a county recorder any document that the person knows:

(A) contains:

(i) a misstatement; or

(ii) an untrue statement;

of a material fact; or

(B) omits a statement of a material fact that is necessary to make the statements that are made, in the light of circumstances under which they are made, not misleading.

(7) Knowingly release or disclose the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers, unless the personal information is used in an activity authorized by the borrower or prospective borrower under one (1) or more of the following circumstances:

(A) The personal information is:

(i) included on an application form or another form; or

(ii) transmitted as part of an application process or an enrollment process.

(B) The personal information is used to obtain a consumer report (as defined in IC 24-5-24-2) for an applicant for credit.

(C) The personal information is used to establish, amend, or terminate an account, a contract, or a policy, or to confirm the accuracy of the personal information.

However, personal information allowed to be disclosed under this subdivision may not be printed in whole or in part on a postcard or other mailer that does not require an envelope, or in a manner that makes the personal information visible on an envelope or a mailer without the envelope or mailer being opened.

(8) Engage in any reckless or negligent activity allowing the release or disclosure of the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers. An activity described in this subdivision includes an action prohibited by section 18(d) of this chapter.

(b) A person who commits an act described in subsection (a) is subject to sections 10, 14, 15, and 16 of this chapter.

SECTION 19. IC 23-2-5-22, AS ADDED BY P.L.48-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) An appeal may be taken by:

(1) any ~~loan broker or principal upon~~ **person** whose application for ~~registration for a loan broker~~ **an initial or a renewal** license **under this chapter** is granted or denied, from any final order of the commissioner concerning the application; ~~or registration;~~

(2) any applicant for **initial or renewed** registration as a ~~loan broker~~ **principal manager** or **an** originator, from any final order of the commissioner affecting the application; ~~or registration as a loan broker or originator;~~

(3) any person against whom a civil penalty is imposed under section 14(a) of this chapter, from the final order of the commissioner imposing the civil penalty; or

(4) any person who is named as a respondent, from any final order issued by the commissioner under section 10 or 11 of this chapter;

to the Marion circuit court or to the circuit or superior court of the county where the person taking the appeal resides or maintains a place of business.

(b) Not later than twenty (20) days after the entry of the order, the commissioner shall be served with:

(1) a written notice of the appeal stating the court to which the

appeal will be taken and the grounds upon which a reversal of the final order is sought;

(2) a demand in writing from the appellant for a certified transcript of the record and of all papers on file in the commissioner's office affecting or relating to the order; and

(3) a bond in the penal sum of five hundred dollars ($500) to the state of Indiana with sufficient surety to be approved by the commissioner, conditioned upon the faithful prosecution of the appeal to final judgment and the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the commissioner is served with the items listed in subsection (b), the commissioner shall make, certify, and deliver to the appellant the transcript, and the appellant shall, not later than five (5) days after the date the appellant receives the transcript, file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The commissioner may appear and file any motion or pleading and form the issue. The cause shall be entered on the trial calendar for trial de novo and given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the commissioner from which the appeal is taken. If the order of the commissioner is reversed, the court shall in its mandate specifically direct the commissioner as to the commissioner's further action in the matter. The commissioner is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant is not barred after thirty (30) days from the date the order is affirmed from filing a new application if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

SECTION 20. IC 24-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

ARTICLE 4.4. FIRST LIEN MORTGAGE LENDING

Chapter 1. General Provisions and Definitions

Sec. 101. This article shall be known and may be cited as the First Lien Mortgage Lending Act.

Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to permit and encourage the development of fair and economically sound first lien mortgage lending practices; and

(b) to conform the regulation of first lien mortgage lending practices to applicable state and federal laws, rules, and regulations.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted under this article.

(4) A reference to a federal law in this article is a reference to the law in effect December 31, 2008.

Sec. 103. This article:

(1) is a general act intended as a unified coverage of its subject matter; and

(2) any part of this article may not be considered to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Sec. 104. The provisions of this article are severable, so that if:

(1) any provisions of this article; or

(2) the application of this article to any person or circumstances;

is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application.

Sec. 201. (1) Except as provided in subsection (2), this article applies to a first lien mortgage transaction:

(a) that is secured by an interest in land in Indiana; and

(b) the closing for which takes place after December 31, 2008.

(2) This article does not apply to a first lien mortgage transaction if:

(a) the debtor is not a resident of Indiana at the time the transaction is entered into; and

(b) the laws of the debtor's state of residence requires that the transaction be made under the laws of the state of the debtor's

residence.

Sec. 202. This article does not apply to the following:

(1) Extensions of credit to government or governmental agencies or instrumentalities.

(2) A first lien mortgage transaction in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(3) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(4) A first lien mortgage transaction made:

(a) in compliance with the requirements of; and

(b) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing and community development authority established by IC 5-20-1-3.

(5) A supervised financial organization.

(6) An operating subsidiary that is majority owned, directly or indirectly, by a supervised financial organization to the extent the operating subsidiary is regulated by the chartering authority of the supervised financial organization.

(7) A credit union service organization that is majority owned, directly or indirectly, by one (1) or more credit unions.

(8) Agencies, instrumentalities, and government owned corporations of the United States, including United States government sponsored enterprises.

Sec. 203. Any civil court in Indiana may exercise jurisdiction over any creditor with respect to any conduct in Indiana governed by this article or with respect to any claim arising from a transaction subject to this article. In addition to any other method provided by rule or by statute, personal jurisdiction over a creditor may be acquired in a civil action or proceeding instituted in any civil court by the service of process.

Sec. 301. In addition to definitions appearing in subsequent chapters of this article, the following definitions apply throughout this article:

(1) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(2) "Creditor" means a person:

(a) that regularly engages in the extension of first lien mortgage transactions that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(b) to which the obligation is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

The term does not include a person described in subsection (13)(a) in a tablefunded transaction.

(3) "Department" refers to the members of the department of financial institutions.

(4) "Director" refers to the director of the department of financial institutions.

(5) "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence.

(6) "First lien mortgage transaction" means a loan in which a first mortgage, or a land contract which constitutes a first lien, is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(7) "Loan" includes:

(a) the creation of debt by:

(i) the creditor's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor; or

(ii) the extension of credit by a person who regularly engages as a seller in credit transactions primarily secured by an interest in land;

(b) the creation of debt by a credit to an account with the creditor upon which the debtor is entitled to draw immediately; and

(c) the forbearance of debt arising from a loan.

(8) "Payable in installments", with respect to a debt or an obligation, means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(9) "Person" includes an individual or an organization.

(10) A person is "regularly engaged"as a creditor in first lien mortgage transactions in Indiana if:

(a) the person acted as a creditor in first lien mortgage transactions in Indiana more than five (5) times in the preceding calendar year; or

(b) the person did not meet the numerical standards set forth in subdivision (a) in the preceding calendar year, but has or will meet the numerical standards set forth in subdivision (a) in the current calendar year.

(11) "Revolving first lien mortgage transaction" means an arrangement between a creditor and a debtor in which:

(a) the creditor permits the debtor to obtain advances from time to time;

(b) the unpaid balances of principal, credit service charges or loan finance charges, and other appropriate charges are debited to an account; and

(c) the debtor has the privilege of paying the balances in installments.

(12) "Supervised financial organization" means a person that is:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States that authorizes the person to make loans and to receive deposits, including deposits into a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(13) "Tablefunded" means a transaction in which:

(a) a person closes a first lien mortgage transaction in the person's own name as a mortgagee with funds provided by one (1) or more other persons; and

(b) the transaction is assigned simultaneously to the mortgage creditor providing the funding not later than one (1) business day after the funding of the transaction.

Chapter 2. Miscellaneous

Sec. 101. This chapter shall be known and may be cited as the First Lien Mortgage Lending Act - Miscellaneous.

Sec. 201. (1) A creditor or mortgage servicer shall provide an accurate payoff amount for a first lien mortgage transaction to the debtor not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate payoff amount. A creditor or mortgage servicer who fails to provide an accurate payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the first lien mortgage transaction from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate payoff amount is provided;

if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer fails to comply with subdivision (a).

(2) This subsection applies to a first lien mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this

subsection, "short sale" means a transaction in which the property that is the subject of a first lien mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the first lien mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

Sec. 301. (1) A violation of a state or federal law, regulation, or rule applicable to first lien mortgage transactions is a violation of this article.

(2) The department may enforce penalty provisions set forth in 15 U.S.C. 1640 for violations of disclosure requirements applicable to first lien mortgage transactions.

Sec. 401. Unless a person subject to this article has first obtained a license from the department, the person shall not regularly engage in Indiana as a creditor in first lien mortgage transactions. However, this article does not require an employee of a person that is licensed under this article to obtain a license to make a first lien mortgage loan.

Sec. 402. (1) The department shall receive and act on all applications for licenses to engage in first lien mortgage transactions. Applications must be made as prescribed by the director.

(2) A license may not be issued unless the department finds that the financial responsibility, character, and fitness of:

(a) the applicant and any significant affiliate of the applicant;

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(4) Evidence of compliance with this section may include:

(a) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);

(b) credit histories; and

(c) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (a) for an individual described in subsection (2), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (3). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(5) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(6) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license in the manner provided in IC 4-21.5.

(7) The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An annual renewal fee as established by the department under IC 28-11-3-5.

(c) Examination fees as established by the department under IC 28-11-3-5.

(8) A fee as established by the department under IC 28-11-3-5 may be charged for each day the annual renewal fee under subsection (7)(b) is delinquent.

(9) A license issued under this section is not assignable or transferable.

(10) Subject to subsection (11), the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses under this section; and

(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under this article.

(11) The director's authority to designate an automated central licensing system and repository under subsection (10) is subject to the following:

(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:

(i) submit information to; or

(ii) participate in;

the automated central licensing system and repository.

(b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute;

(ii) initiate any civil action based on information obtained from the automated central licensing system if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the automated central licensing system if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are confidential under IC 28-1-2-30 and that are:

(i) furnished by the director, the director's designee, or a

licensee; or

(ii) otherwise obtained by the automated central licensing system and repository;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.

(d) Disclosure of documents, materials, and information:

(i) to the director or the director's designee; or

(ii) by the director or the director's designee;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.

(f) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(g) The director may require a licensee required to submit information to the automated central licensing system and repository to pay a processing fee considered reasonable by the director.

Sec. 403. (1) A license issued by the department authorizing a person to engage in first lien mortgage transactions under this article may be revoked by the department if the person fails to:

(a) file any renewal form required by the department; or

(b) pay any license renewal fee described under section 402 of this chapter;

not later than sixty (60) days after the due date.

(2) A person whose license is revoked under this section may do either of the following:

(a) Pay all delinquent fees and apply for a new license.

(b) Appeal the revocation to the department for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the license revocation, the license remains in force.

Sec. 404. (1) The department may issue to a person licensed to engage in first lien mortgage transactions an order to show cause why the person's license should not be revoked or suspended for a period determined by the department. The order must state the place and time for a meeting with the department that is not less than ten (10) days from the date of the order. After the meeting, the department shall revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

(i) this article or any rule or order lawfully adopted or issued under this article; or

(ii) any other state or federal law, regulation, or rule applicable to first lien mortgage transactions; or

(b) facts or conditions exist which would clearly have justified the department in refusing to grant a license had the facts or conditions been known to exist at the time the application for the license was made.

(2) Except as provided in section 403 of this chapter, a revocation or suspension of a license is not authorized under this article unless before instituting proceedings to suspend or revoke the license, the department gives notice to the licensee of the conduct or facts that warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the department finds that probable cause for revocation of a license exists and that enforcement of this article requires immediate suspension of the license pending investigation, the department may, after a hearing with the licensee upon five (5) days written notice to the licensee, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of the revocation or suspension. Not later than five (5) days after the entry of the order the department shall deliver to the

licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to engage in first lien mortgage transactions may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this paragraph does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) A revocation, suspension, or relinquishment of a license does not impair or affect the obligation of any preexisting lawful contract between:

(a) the person whose license has been revoked, suspended, or relinquished; and

(b) any debtor.

(7) The department may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if the director determines that, at the time the determination is made, there is no fact or condition that exists that clearly would justify the department in refusing to grant a license.

(8) If the director:

(a) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(b) determines that a license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

Sec. 405. (1) Every licensee shall maintain records in a manner that will enable the department to determine whether the licensee is complying with this article. The record keeping system of a licensee is sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever the records are located. Records concerning any first lien mortgage transaction shall be retained for two (2) years after the making of the final entry relating to the transaction, but in the case of a revolving first lien mortgage transaction, the two (2) years required under this subsection is measured from the date of each entry relating to the

transaction.

(2) A licensee shall file with the department financial statements relating to all first lien mortgage transactions originated by the licensee. The licensee shall file the financial statements as required by the department, but not more frequently than annually, in the form prescribed by the department.

(3) A licensee shall file notification with the department if the licensee:

(a) has a change in name, address, or any of its principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;

not later than thirty (30) days after the date of the event described in this subsection.

(4) A licensee shall file notification with the department if a key officer or director of the licensee:

(a) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(b) has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

not later than thirty (30) days after the date of the event described in this subsection.

Sec. 501. A creditor in a first lien mortgage transaction shall comply with IC 6-1.1-12-43, to the extent applicable.

Sec. 502. (1) A violation by a creditor in a first lien mortgage transaction of Section 125 of the Federal Consumer Credit Protection Act (15 U.S.C. 1635) (concerning a debtor's right to rescind a transaction) constitutes a violation of this article. A creditor may not accrue interest during the period when a first lien mortgage transaction may be rescinded under Section 125 of the Federal Consumer Protection Act (15 U.S.C. 1635).

(2) A creditor must make available for disbursement the proceeds of a transaction subject to subsection (1) on the later of:

(a) the date the creditor is reasonably satisfied that the debtor

has not rescinded the transaction; or

(b) the first business day after the expiration of the rescission period under subsection (1).

Chapter 3. Administration

Sec. 101. This chapter shall be known and may be cited as the First Lien Mortgage Lending Act - Administration.

Sec. 102. This chapter applies to a person that regularly engages as a creditor in first lien mortgage transactions in Indiana.

Sec. 103. (1) In addition to other powers granted by this article, the department within the limitations provided by law may:

(a) receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the department's own initiative;

(b) counsel persons and groups on their rights and duties under this article;

(c) establish programs for the education of consumers with respect to credit practices and problems;

(d) make studies appropriate to effectuate the purposes and policies of this article and make the results available to the public;

(e) adopt, amend, and repeal rules, orders, policies, and forms to carry out the provisions of this article;

(f) maintain more than one (1) office within Indiana; and

(g) appoint any necessary attorneys, hearing examiners, clerks, and other employees and agents and fix their compensation, and authorize attorneys appointed under this section to appear for and represent the department in court.

(2) Liability may not be imposed under this article for an act done or omitted in conformity with a rule, written notice, written opinion, written interpretation, or written directive of the department notwithstanding the fact that after the act is done or omitted the rule, written notice, written opinion, written interpretation, or written directive may be:

(a) amended or repealed; or

(b) determined by judicial or other authority to be invalid;

for any reason.

Sec. 104. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the

department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.

(b) Minutes of:

(i) management meetings; and

(ii) other meetings.

(c) Financial records, credit files, and data bases.

(d) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, compel the attendance of witnesses, adduce evidence, and require the production of any matter that is relevant to an investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records concerning any transaction subject to this article shall be retained for two (2) years after the making of the final entry relating to the first lien mortgage transaction, but in the case of a revolving first lien mortgage transaction the two (2) year period is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

(a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of a first lien mortgage transaction.

(b) The authority to require a creditor to comply with the penalty provisions set forth in IC 24-4.4-2-201.

(c) The authority to investigate complaints filed with the department by debtors.

(3) The department shall be given free access to the records wherever the records are located. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or the department's representative to examine the records where they are maintained. The department may designate comparable officials of the state in which the records are located

to inspect the records on behalf of the department.

(4) Upon a person's failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice by the department to all affected persons, the department may apply to any civil court with jurisdiction for an order compelling compliance.

(5) The department shall not make public:

(a) the name or identity of a person whose acts or conduct the department investigates under this section; or

(b) the facts discovered in the investigation.

However, this subsection does not apply to civil actions or enforcement proceedings under this article.

Sec. 105. Except as otherwise provided, IC 4-21.5-3 governs any action taken by the department under this chapter or IC 24-4.4-2-401 through IC 24-4.4-2-405. IC 4-22-2 applies to the adoption of rules by the department under this article. However, if the department determines that an emergency exists, the department may adopt any rules authorized by this article under IC 4-22-2-37.1.

Sec. 106. (1) After notice and hearing, the department may order a creditor or a person acting on the creditor's behalf to cease and desist from engaging in violations of this article. In any civil court with jurisdiction:

(a) a respondent aggrieved by an order of the department may obtain judicial review of the order; and

(b) the department may obtain an order of the court for the enforcement of the department's order.

A proceeding for review or enforcement under this subsection shall be initiated by the filing of a petition in the court. Copies of the petition shall be served upon all parties of record.

(2) Not later than thirty (30) days after service of a petition for review upon the department under subsection (1), or within such further time as the court may allow, the department shall transmit to the court the original or a certified copy of the entire record upon which the order that is the subject of the review is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. After conducting a hearing on the matter, the court may:

(a) reverse or modify the order if the findings of fact of the department are clearly erroneous in view of the reliable, probative, and substantial evidence in the whole record;

(b) grant any temporary relief or restraining order the court considers just; and

(c) enter an order:

(i) enforcing;

(ii) modifying;

(iii) enforcing as modified; or

(iv) setting aside;

in whole or in part, the order of the department; or

(d) enter an order remanding the case to the department for further proceedings.

(3) An objection not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the department in the interest of justice for the purpose of:

(a) adducing additional specified and material evidence; and

(b) seeking a finding upon such evidence;

upon good cause shown for the failure to previously adduce this evidence before the department.

(4) The jurisdiction of the court is exclusive and the court's final judgment or decree is subject to review on appeal in the same manner and form and with the same effect as in appeals from a final judgment or decree. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(5) A proceeding for review under this section must be initiated not later than thirty (30) days after a copy of the order of the department is received. If a proceeding is not initiated within the time set forth in this subsection, the department may obtain a decree of a civil court with jurisdiction for enforcement of the department's order upon a showing that:

(a) the order was issued in compliance with this section;

(b) a proceeding for review was not initiated within the thirty (30) day period prescribed by this subsection; and

(c) the respondent is subject to the jurisdiction of the court.

(6) With respect to unconscionable agreements or fraudulent or unconscionable conduct by a respondent, the department may not

issue an order under this section but may bring a civil action for an injunction under section 111 of this chapter.

Sec. 107. If it is claimed that a person has engaged in conduct subject to an order by:

(a) the department under section 106(1) of this chapter; or

(b) a court under sections 108 through 110 of this chapter;

the department may accept an assurance in writing that the person will not engage in the conduct in the future. If a person giving an assurance of discontinuance fails to comply with the terms of the assurance, the assurance is evidence that before the assurance was issued the person engaged in the conduct described in the assurance.

Sec. 108. The department may bring a civil action to restrain a person from violating this article and for other appropriate relief.

Sec. 109. (1) As used in this section, "deceptive act" means an act or a practice in which a person knowingly or intentionally:

(a) makes a material misrepresentation concerning; or

(b) conceals material information regarding the terms or conditions of;

a first lien mortgage transaction.

(2) For purposes of this section, "knowingly" means having actual knowledge at the time of the transaction.

(3) The department may bring a civil action to enjoin a deceptive act performed in connection with a first lien mortgage transaction.

Sec. 110. With respect to an action brought under:

(a) section 108 of this chapter to enjoin violations of this article; or

(b) section 109 of this chapter to enjoin deceptive acts;

the department may apply to the court for appropriate temporary relief against a respondent, pending final determination of the proceedings. If the court finds after a hearing held upon notice to the respondent that there is reasonable cause to believe that the respondent is engaging in or is likely to engage in the conduct sought to be restrained, the court may grant any temporary relief or restraining order the court considers appropriate.

Sec. 111. (1) The department may bring a civil action against a creditor or a person acting on the creditor's behalf to recover a civil penalty for willfully violating this article. If the court finds

that the defendant has engaged in a course of repeated and willful violations of this article, the court may assess a civil penalty of not more than five thousand dollars ($5,000). A civil penalty may not be imposed under this subsection:

(a) for violations of this article occurring more than two (2) years before the action is brought; or

(b) for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

(2) If the department determines, after notice and opportunity for hearing, that a person has violated this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars ($10,000) per violation.

Sec. 112. In an action brought by the department under this article, the defendant does not have a right to trial by a jury.

Sec. 113. The grant of powers to the department under this article does not affect remedies available to debtors under this article or under other principles of law or equity.

Sec. 114. The department may bring an action or a proceeding in a court in a county:

(1) in which an act on which the action or proceeding is based occurred;

(2) in which the respondent resides or transacts business; or

(3) in which the action or proceeding is otherwise authorized by rule or venue laws.

Sec. 115. As used in this article, "civil court" means any court in Indiana having jurisdiction of civil cases.

SECTION 21. IC 24-4.5-1-301, AS AMENDED BY P.L.57-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 301. General Definitions – In addition to definitions appearing in subsequent chapters in this article:

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products;

"Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable **by written agreement** in **more than four (4)** installments **(not including a down payment);** and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an

arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(11) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(12) "Organization" means a corporation, a government or governmental subdivision, or an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, or an association.

(13) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(14) "Person" includes a natural person or an individual and an organization.

(15) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, **or** sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(17) "Mortgage transaction" means a transaction in which a first mortgage or a land contract which constitutes a first lien is created or retained against land.

(18) "Regularly engaged" means a person who extends consumer credit more than:

(a) twenty-five (25) times; or

(b) five (5) times for transactions secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of

the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(22) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

SECTION 22. IC 24-4.5-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 107. Definition; "Seller" - Except as otherwise provided, "seller" **means a person regularly engaged as a creditor in making consumer credit sales. The term** includes an assignee of the seller's right to payment but use of the term does not in itself impose on an assignee any obligation of the seller with respect to events occurring before the assignment.

SECTION 23. IC 24-4.5-2-201, AS AMENDED BY P.L.57-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 201. Credit Service Charge for Consumer Credit Sales other than Revolving Charge Accounts — (1) With respect to a consumer credit sale, other than a sale pursuant to a revolving charge account, a seller may contract for and receive a credit service charge not exceeding that permitted by this section.

(2) The credit service charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the amount financed which is three hundred dollars ($300) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the amount financed which is more than three hundred dollars ($300) but does not exceed one thousand dollars ($1,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed which is more than one

thousand dollars ($1,000); or

(b) twenty-one percent (21%) per year on the unpaid balances of the amount financed.

(3) This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

(a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-2-210).

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed more than thirty (30) days after that date, with the date of commencement of delivery or performance except as set forth below:

(a) Delays attributable to the customer. Where the customer requests delivery after the thirty (30) day period or where delivery occurs after the thirty (30) day period for a reason attributable to the customer (including but not limited to failure to close on a residence or failure to obtain lease approval), the term of the sale agreement shall commence with the date credit is granted.

(b) Partial Deliveries. Where any portion of the order has been delivered within the thirty (30) day period, the term of the sale agreement shall commence with the date credit is granted.

Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum credit service charge of not more than thirty dollars ($30). The minimum credit service charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer credit sale, refinancing, or consolidation, regardless of whether the sale, refinancing, or consolidation is precomputed;

(b) the sale, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a credit service charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the credit service charge earned at the time of prepayment is less than the minimum credit service charge contracted for under this subsection.

(7) The amounts of three hundred dollars ($300) and one thousand dollars ($1,000) in subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

(8) The amount of thirty dollars ($30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

SECTION 24. IC 24-4.5-2-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-2-210), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (IC 24-4.5-2-210), the total credit service charge, including the prepaid credit service charge, may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.

(3) The creditor or mortgage servicer shall provide an accurate

payoff of the consumer credit sale to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:

(A) one hundred dollars ($100) if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars ($100); or

(ii) the credit service charge that accrues on the sale from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;

if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit sale in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided

written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 25. IC 24-4.5-3-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 107. Definitions: "Lender"; "Precomputed"; "Principal" – (1) Except as otherwise provided, "lender" **means a person regularly engaged in making consumer loans. The term** includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(2) A loan, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) "Principal" of a loan means the total of:

(a) the net amount paid to, receivable by, or paid or payable for the account of the debtor;

(b) the amount of any discount excluded from the loan finance charge (subsection (2) of **IC** 24-4.5-3-109); and

(c) to the extent that payment is deferred:

(i) amounts actually paid or to be paid by the lender for registration, certificate of title, or license fees if not included in (a); and

(ii) additional charges permitted by this chapter (**IC** 24-4.5-3-202).

SECTION 26. IC 24-4.5-3-201, AS AMENDED BY P.L.57-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 201. Loan Finance Charge for Consumer Loans other than Supervised Loans—(1) Except as provided in subsections (6) and (8), with respect to a consumer loan other than a

supervised loan (IC 24-4.5-3-501), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-one percent (21%) per year on the unpaid balances of the principal.

(2) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

(3) For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

(4) With respect to a consumer loan made pursuant to a revolving loan account:

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is one and three-fourths percent (1 3/4%) of an amount no greater than:

(i) the average daily balance of the debt;

(ii) the unpaid balance of the debt on the same day of the billing cycle; or

(iii) subject to subsection (5), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this subparagraph and subparagraph (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

(b) if the billing cycle is not monthly, the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a percentage which bears the same relation to one-twelfth (1/12) the maximum annual percentage rate as the number of days in the billing cycle bears to thirty (30); and

(c) notwithstanding subsection (1), if there is an unpaid balance on the date as of which the loan finance charge is applied, the lender may contract for and receive a charge not exceeding fifty cents ($0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents ($0.50) which bears the same relation to fifty cents ($0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly, but no charge may be made pursuant to this paragraph if the lender has made an annual charge for the same period as permitted by the provisions on additional charges (paragraph (c) of subsection (1) of IC 24-4.5-3-202).

(5) Subject to classifications and differentiations, the lender may reasonably establish and make the same loan finance charge on all amounts financed within a specified range. A loan finance charge does not violate subsection (1) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars ($30). The minimum loan finance charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (1); and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(7) The amount of thirty dollars ($30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(8) In addition to the loan finance charge provided for in this section, a lender may contract for the following:

(a) With respect to a consumer loan that is not made under a revolving loan account, a loan origination fee of not more than two percent (2%) of the loan amount.

(b) With respect to a consumer loan that is made under a revolving loan account, a loan origination fee of not more than two percent (2%) of the line of credit that was contracted for.

(9) The charges provided for in subsection (8):

(a) are not subject to refund or rebate;

(b) are not permitted if a lender makes a settlement charge under IC 24-4.5-3-202(d)(ii); and

(c) are limited to two percent (2%) of the part of the loan that does not exceed two thousand dollars ($2,000), if the loan is not primarily secured by an interest in land.

Notwithstanding subdivision (a), if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender within three (3) months after the date of the prior loan, the lender may charge a loan origination fee only on that part of the new loan not used to pay the amount due on the prior loan, or in the case of a revolving loan, the lender may charge a loan origination fee only on the difference between the amount of the existing credit line and the increased credit line. This subsection does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyance, and similar documents under IC 24-4.5-3-202(d)(ii), in addition to the charges provided for in subsection (8).

SECTION 27. IC 24-4.5-3-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 209. Right to

Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-3-210), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

(a) if the loan is refinanced or consolidated with the same creditor;

(b) for prepayment by proceeds of any insurance or acceleration after default; or

(c) after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (IC 24-4.5-3-210), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under IC 24-4.5-3-201, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

(a) The loan origination fee allowed under IC 24-4.5-3-201.

(b) The ~~borrower~~ **debtor** paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer loan to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit loan in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 28. IC 24-4.5-3-508, AS AMENDED BY P.L.57-2006,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) The loan finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is three hundred dollars ($300) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than three hundred dollars ($300) but does not exceed one thousand dollars ($1,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal which is more than one thousand dollars ($1000); or

(b) twenty-one percent (21%) per year on the unpaid balances of the principal.

(3) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

(4) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations, the lender may reasonably establish and make the same loan finance charge on all principal amounts within a specified range. A loan finance charge does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted in subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) The amounts of three hundred dollars ($300) and one thousand dollars ($1,000) in subsection (2) and thirty dollars ($30) in subsection (7) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). For the adjustment of the amount of thirty dollars ($30), the Reference Base Index to be used is the Index for October 1992.

(7) With respect to a supervised loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars ($30). The minimum loan finance charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

SECTION 29. IC 24-9-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a written release upon prepayment. A creditor must provide a payoff balance not later than ten (10) ~~business~~ **calendar** days after the request is received by the creditor. ~~(b)~~ For purposes of this ~~section,~~ **subsection,** "fee" does not

include actual charges incurred by a creditor for express or priority delivery ~~requested by the borrower~~ of home loan documents to the borrower **if such delivery is requested by the borrower.**

(b) This subsection applies to a home loan with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a home loan is sold for an amount that is less than the amount of the borrower's outstanding obligation on the home loan. A creditor, a servicer, or a creditor's agent that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 30. IC 25-34.1-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a)** To be licensed or certified as a real estate appraiser, an individual must meet the following conditions:

(1) Not have a conviction for any of the following:

(A) An act that would constitute a ground for disciplinary sanction under IC 25-1-11.

(B) A crime that has a direct bearing on the individual's ability to practice competently.

(C) Fraud or material deception in the course of professional services or activities.

(D) A crime that indicates the individual has the propensity to endanger the public.

(2) Have satisfied the requirements established under

IC 25-34.1-3-8(f).

(b) After December 31, 2008, the board shall require each applicant for initial licensure or certification under this chapter to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for use by the board in determining whether the applicant should be denied licensure or certification under this chapter for any reason set forth in subsection (a)(1). The applicant shall pay any fees or costs associated with the fingerprints and background check required under this subsection. The board may not release the results of a background check described in this subsection to any private entity.

(c) The board may request evidence of compliance with this section in accordance with subsection (d). Evidence of compliance with this section may include any of the following:

(1) Subject to subsections (b) and (d)(2), criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation.

(2) Credit histories.

(3) Other background checks considered necessary by the board.

(d) The board may request evidence of compliance with this section at any of the following times:

(1) The time of application for an initial license or certificate.

(2) The time of renewal of a license or certificate.

(3) Any other time considered necessary by the board.

(e) The commission, upon recommendation of the board, shall adopt rules under IC 4-22-2 to implement this section.

SECTION 31. IC 27-7-3-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.5. (a) This section applies to a transaction that:**

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department shall establish and maintain an electronic system for the collection and

storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

(1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) The name and registration number (under IC 23-2-5) of each originator involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

(B) salesperson or broker-salesperson, if any;

involved in the transaction.

(4) The:

(A) name of; and

(B) code assigned by the National Association of Insurance Commissioners (NAIC) to;

each title insurance underwriter involved in the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

(6) The name and:

(A) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

(B) license number (under IC 25-34.1) of each broker;

who appraises the property that is the subject of the transaction.

(7) The name of the mortgagee and, if the mortgagee is required to be licensed under:

(A) IC 24-4.4; or

(B) IC 24-4.5-3-502;

the license number of the mortgagee.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to do the following:

(A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street

address, or some other means of identification that the department determines:

(i) is sufficient to identify the property; and

(ii) determinable by the closing agent.

(B) Subject to subsection (d) and to the extent determinable, input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction.

(C) Respond to the following questions:

(i) "On what date did you receive the closing instructions from the creditor in the transaction?".

(ii) "On what date did the transaction close?".

(D) Submit the form electronically to a data base maintained by the department.

(d) Not later than the time of the closing, each person described in subsection (b) shall provide to the closing agent in the transaction the person's:

(1) legal name; and

(2) license number, certificate number, registration number, or NAIC code, as appropriate;

to allow the closing agent to comply with subsection (c)(2)(B). A person described in subsection (b)(7) shall provide the information required by this subsection for any person described in subsection (b)(6) that appraises the property that is the subject of the transaction on behalf of the person described in subsection (b)(7). A person described in subsection (b)(3)(B) who is involved in the transaction may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the principal broker for the person described in subsection (b)(3)(B).

(e) A person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars ($100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(D);

except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2 to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

(1) establish;

(2) collect; and

(3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

(1) require the fee to be paid:

(A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and

(B) by the borrower in the transaction;

(2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form

described in subsection (c)(2); and

(3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

SECTION 32. IC 27-7-3.6-1, AS ADDED BY P.L.171-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The title insurance enforcement fund is established for the following purposes:

(1) To provide supplemental funding for department operations that are related to title insurance, **including any of the following:**

(A) The investigation of any matter concerning title insurance transactions in Indiana, to the extent necessary to determine compliance with this title.

(B) Appropriate administrative and civil actions to redress instances of noncompliance with this title.

(C) Cooperative efforts with federal, state, and local law enforcement agencies in investigating the following:

(i) Deceptive acts in connection with title insurance transactions.

(ii) Criminal violations involving deceptive acts in connection with title insurance transactions.

(iii) Violations of the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) and any other federal laws or regulations concerning title insurance transactions. To the extent authorized by federal law, the department may enforce compliance with the federal statutes or regulations described in this item or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(D) Actions to enjoin violations of 12 U.S.C. 2607, as permitted under 12 U.S.C. 2607(d) and 12 U.S.C. 2614.

(2) To pay the costs of hiring and employing staff in the area of enforcement of title insurance law.

(3) To provide funding for educational materials or services designed to provide information to consumers about residential title insurance transactions.

SECTION 33. IC 34-55-10-2, AS AMENDED BY P.L.179-2005,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

(1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars ($15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of eight thousand dollars ($8,000).

(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars ($300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

~~(8)~~ **(9)** Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision ~~(9)~~ **(10)** having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

~~(9)~~ **(10)** Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate

contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision ~~(8)~~ **(9)** having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

~~(10)~~ **(11)** The debtor's interest in a refund or a credit received or to be received under section 32 of the Internal Revenue Code of 1986.

(d) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entireties does not result in a severance of the tenancy by the entireties.

(e) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 5-20-1-5; IC 5-20-1-6.

SECTION 35. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "task force" refers to the mortgage lending and fraud prevention task force created under subsection (b).**

(b) Not later than May 1, 2008, the following agencies shall create the mortgage lending and fraud prevention task force by each appointing an equal number of representatives to serve on the task force:

(1) The securities division of the office of the secretary of state established under IC 23-19-6-1(a).

(2) The homeowner protection unit established by the attorney general under IC 4-6-12-2.

(3) The department of financial institutions established by IC 28-11-1-1.

(4) The department of insurance created by IC 27-1-1-1.

(5) The Indiana real estate commission created by IC 25-34.1-2-1.

(6) The real estate appraiser licensure and certification board created by IC 25-34.1-8-1.

(c) The members of the task force shall annually appoint a chair from among the members of the task force. Each year, the chair shall rotate among the agencies set forth in subsection (b).

(d) Subject to subsection (e), beginning not later than July 2008, the task force shall meet each month to:

(1) coordinate the state's efforts to:

(A) regulate the various participants involved in originating, issuing, and closing home loans;

(B) enforce state laws and rules concerning mortgage lending practices and mortgage fraud; and

(C) prevent fraudulent practices in the home loan industry; and

(2) share information and resources necessary for the efficient administration of the tasks set forth in subdivision (1), unless prohibited by law.

(e) With respect to any meeting of the task force:

(1) one (1) or more members of the task force may participate in the meeting; or

(2) the meeting may be conducted in its entirety;

by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can communicate with each other. Participation by the means described in this subsection constitutes presence in person at the meeting.

(f) Beginning in 2008, not later than November 1 of each year, the task force shall report to the legislative council on the activities of each agency comprising the task force under subsection (b) with respect to the most recent state fiscal year. The report required under this subsection must include:

(1) information on the regulatory activities of each agency described in subsection (b), including a description of any:

(A) disciplinary or enforcement actions taken;

(B) criminal prosecutions pursued;

(C) rules adopted;

(D) policies issued; or

(E) legislative recommendations made;

concerning the professions involved in originating, issuing,

and closing home loans;

(2) a description of any challenges:

(A) encountered by the task force during the most recent state fiscal year; or

(B) anticipated by the task force in the current state fiscal year;

in carrying out the duties set forth in subsection (d);

(3) any additional information required by the legislative council; and

(4) any recommendations by the task force for legislation necessary to assist the task force in carrying out the duties set forth in subsection (d).

A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

SECTION 36. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.**

(b) As used in this SECTION, "mortgage transaction" refers to a first lien mortgage transaction (as defined in IC 24-4.4-1-301(6)).

(c) Not later than November 1, 2008, the authority shall provide a report to the legislative council that includes the following:

(1) An identification of:

(A) new sources of funding that can be used to assist Indiana homeowners in refinancing their existing mortgage transactions; or

(B) existing sources of funding that can be directed or redirected to assist Indiana homeowners in refinancing their existing mortgage transactions;

in order to prevent the foreclosure of the homes secured by homeowners' existing mortgage transactions.

(2) A plan for the rehabilitation of neighborhoods or communities in Indiana that have been adversely or disproportionately affected by mortgage foreclosures. The plan required by this subdivision must include an identification of the following:

(A) The areas in Indiana that have been adversely or disproportionately affected by mortgage foreclosures, including any statistics or data used to identify the areas.

(B) New or existing sources of funding that can be directed

or redirected to the proposed rehabilitation efforts.

(3) Any recommendations for legislation that the authority determines is needed to accomplish the objectives described in subdivisions (1) and (2).

(4) Any other recommendations of the authority concerning:

(A) the prevention of mortgage foreclosures; or

(B) the rehabilitation of neighborhoods or communities adversely or disproportionately affected by mortgage foreclosures.

(d) The report to the legislative council required by this SECTION must be in an electronic format under IC 5-14-6.

(e) This SECTION expires January 1, 2010.

SECTION 37. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commissioner" refers to the securities commissioner appointed under IC 23-19-6-1.**

(b) As used in this SECTION, "director" refers to the director of the department of financial institutions appointed under IC 28-11-2-1.

(c) The commissioner and the director shall cooperate to determine the appropriate state agency or department to oversee the regulation of a person that is, has been, or may be subject to regulation, licensure, or registration under both:

(1) IC 23-2-5; and

(2) IC 24-4.4, as added by this act.

(d) The commissioner and the director shall issue joint guidelines to address the appropriate regulation of a person described in subsection (c) not later than September 1, 2008. The joint guidelines issued under this subsection must include any recommendations for legislation needed to implement the appropriate regulation of a person described in subsection (c), as determined by the commissioner and the director.

(e) This SECTION expires January 1, 2010.

SECTION 38. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the real estate appraiser licensure and certification board created by IC 25-34.1-8-1.**

(b) As used in this SECTION, "commission" refers to the Indiana real estate commission created by IC 25-34.1-2-1.

(c) Notwithstanding IC 25-34.1-8-10(e), as added by this act, the commission shall adopt rules to implement IC 25-34.1-8-10, as

amended by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Not later than July 1, 2008, the board shall make recommendations to the commission concerning the rules needed to implement IC 25-34.1-8-10, as amended by this act. The commission shall adopt any emergency rules under this SECTION not later than December 1, 2008. An emergency rule adopted under this SECTION:

(1) takes effect on January 1, 2009; and

(2) expires on the earlier of:

(A) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36; or

(B) January 1, 2010.

(d) This SECTION expires January 1, 2010.

SECTION 39. **An emergency is declared for this act.**

ACTS 2008

Laws enacted by the

115th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION
(2008)

VOLUME IV

(P.L.146-2008 through INDEX)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

P.L.146-2008
[H.1001. Approved March 19, 2008.]

AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-7-15-2, AS AMENDED BY P.L.161-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The general assembly finds that the following offices in Indiana provide public assistance within the scope of NVRA:

(1) Each ~~county~~ **local** office ~~of family and children~~ established under ~~IC 12-19-1~~ **IC 12-19-1-1** that administers:

(A) the Temporary Assistance for Needy Families program (TANF) under IC 12-14; or

(B) the Medicaid program under IC 12-15.

(2) Each office of the division of family resources that administers the food stamp program under federal law.

(3) Each office of the state department of health that administers the Special Supplemental Nutrition Program for the Women, Infants and Children Program (WIC) under IC 16-35-1.5.

SECTION 2. IC 3-8-1-23, AS AMENDED BY P.L.219-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) Subject to subsection (b), a candidate for the office of county assessor must:

(1) have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and

(2) own real property located in the county upon taking office.

(b) A candidate for the office of county assessor who runs in an election after June 30, 2008, must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5.

(c) A candidate for the office of county assessor who runs in an election after January 1, 2012, must have attained the certification of a level three assessor-appraiser under IC 6-1.1-35.5.

SECTION 3. IC 3-8-1-23.6 AS ADDED BY HEA 1137-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23.6. (a) A person who runs in an election after June 30, 2008, for the office of township assessor under IC 36-6-5-1 must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office.

~~(b) A person who runs in an election after June 30, 2008, for the office of township trustee and who performs all the duties and has all the rights and powers of a township assessor under IC 36-6-5-1 must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office to qualify to perform those duties and to assume those rights and powers.~~

~~(c) A person who runs successfully under subsection (b) but has not attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office:~~

~~(1) may perform in office only duties other than the duties of a township assessor under IC 36-6-5-1; and~~

~~(2) has only the rights and powers of the trustee other than the rights and powers of a township assessor under IC 36-6-5-1.~~

~~The restrictions listed in this subsection apply to the entire term for which the person takes office, regardless of whether the person attains the certification of a level two assessor-appraiser under IC 6-1.1-35.5 during the term of office.~~

(b) A person who runs in an election after January 1, 2012, for the office of township assessor under IC 36-6-5-1 must have attained the certification of a level three assessor-appraiser under IC 6-1.1-35.5 before taking office.

SECTION 4. IC 3-10-1-19, AS AMENDED BY P.L.164-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or

shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

[] (1) AB_____

[] (2) CD_____

[] (3) EF _____

[] (4) GH_____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County council member.

(5) Township offices:

(A) Township assessor **(only in a township referred to in IC 36-6-5-1(d)).**

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.

(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.

(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

(1) in a separate column on the ballot if voting is by paper ballot;

(2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or

(3) either:

(A) on a separate screen for each office or public question; or

(B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;

if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"

[] YES
[] NO

SECTION 5. IC 3-10-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

(1) Clerk of the circuit court.
(2) County auditor.
(3) County recorder.
(4) County treasurer.
(5) County sheriff.
(6) County coroner.
(7) County surveyor.
(8) County assessor.
(9) County commissioner.
(10) County council member.
(11) Township trustee.
(12) Township board member.
(13) Township assessor **(only in a township referred to in IC 36-6-5-1(d)).**
(14) Judge of a small claims court.
(15) Constable of a small claims court.

SECTION 6. IC 3-11-2-12, AS AMENDED BY P.L.2-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:
  (A) President and Vice President of the United States.
  (B) United States Senator.
  (C) Governor and lieutenant governor.
  (D) Secretary of state.
  (E) Auditor of state.
  (F) Treasurer of state.
  (G) Attorney general.
  (H) Superintendent of public instruction.
  (I) United States Representative.
(2) Legislative offices:

(A) State senator.
(B) State representative.
(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.
(5) Township offices:
(A) Township assessor **(only in a township referred to in IC 36-6-5-1(d)).**
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

SECTION 7. IC 4-10-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The auditor of state shall prepare and publish each year the following financial reports:

(1) A report showing receipts by source of revenue and by type of fund disbursements as they relate to each agency, department, and fund of the state government. This report shall include a recital of disbursements made by the following functions of state government:

(A) Education.

(B) Welfare.

(C) Highway.

(D) Health.

(E) Natural resources.

(F) Public safety.

(G) General governmental.

(H) Hospital and state institutions.

(I) Correction, parole, and probation.

(2) A report containing the following property tax data by counties:

(A) A report showing:

(i) the total amount of tax delinquencies;

(ii) the total amount of the administrative costs of the offices of township ~~and~~ **assessors (if any),** county assessors, the offices of county auditors, and the offices of county treasurers; and

(iii) the total amount of other local taxes collected.

(B) An abstract of taxable real and personal property, which must include a recital of the number and the total amount of tax exemptions, including mortgage exemptions, veterans' exemptions, exemptions granted to blind persons, exemptions granted to persons over sixty-five (65) years of age, and any and all other exemptions granted to any person under ~~the provisions of~~ the Constitution and the laws of the state.

(b) The reports described in this section shall be made available for inspection as soon as they are prepared and shall be published in the manner provided in section 7 of this chapter by the auditor of state not later than December 31 following the end of each fiscal year.

SECTION 8. IC 4-10-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

"Adjusted personal income" for a particular calendar year means the adjusted state personal income for that year as determined under section 3(b) of this chapter.

"Annual growth rate" for a particular calendar year means the percentage change in adjusted personal income for the particular calendar year as determined under section 3(c) of this chapter.

"Budget director" refers to the director of the budget agency established under IC 4-12-1.

"Costs" means the cost of construction, equipment, land, property rights (including leasehold interests), easements, franchises, leases, financing charges, interest costs during and for a reasonable period after construction, architectural, engineering, legal, and other consulting or advisory services, plans, specifications, surveys, cost estimates, and other costs or expenses necessary or incident to the acquisition, development, construction, financing, and operating of an economic growth initiative.

"Current calendar year" means a calendar year during which a transfer to or from the fund is initially determined under sections 4 and 5 of this chapter.

"Economic growth initiative" means:

(1) the construction, extension, or completion of sewerlines, waterlines, streets, sidewalks, bridges, roads, highways, public ways, and any other infrastructure improvements;

(2) the leasing or purchase of land and any site improvements to land;

(3) the construction, leasing, or purchase of buildings or other structures;

(4) the rehabilitation, renovation, or enlargement of buildings or other structures;

(5) the leasing or purchase of machinery, equipment, or furnishings; or

(6) the training or retraining of employees whose jobs will be created or retained as a result of the initiative.

"Fund" means the counter-cyclical revenue and economic stabilization fund established under this chapter.

"General fund revenue" means all general purpose tax revenue and other unrestricted general purpose revenue of the state, including federal revenue sharing monies, credited to the state general fund and from which appropriations may be made. ~~The term "general fund revenue" does not include revenue held in the reserve for tuition support under IC 4-12-1-12.~~

"Implicit price deflator for the gross national product" means the implicit price deflator for the gross national product, or its closest equivalent, which is available from the United States Bureau of Economic Analysis.

"Political subdivision" has the meaning set forth in IC 36-1-2-13.

"Qualified economic growth initiative" means an economic growth initiative that is:

(1) proposed by or on behalf of a political subdivision to promote economic growth, including the creation or retention of jobs or the infrastructure necessary to create or retain jobs;

(2) supported by a financing plan by or on behalf of the political subdivision in an amount at least equal to the proposed amount of the grant under section 15 of this chapter; and

(3) estimated to cost not less than twelve million five hundred thousand dollars ($12,500,000).

"State personal income" means state personal income as that term is defined by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency.

"Total state general fund revenue" for a particular state fiscal year means the amount of that revenue for the particular state fiscal year as finally determined by the auditor of state.

"Transfer payments" means transfer payments as that term is defined by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency.

SECTION 9. IC 4-10-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) Except as provided in subsection (b), if the balance, at the end of a state fiscal year, in the fund exceeds seven percent (7%) of the total state general fund revenues for that state fiscal year, the excess is appropriated from the fund to the ~~property tax replacement~~ **state general** fund. ~~established under IC 6-1.1-21.~~ The auditor of state and the treasurer of state shall transfer the amount so appropriated from the fund to the ~~property tax replacement~~ **state general** fund during the immediately following state fiscal year.

(b) If an appropriation is made out of the fund under section 4 of this chapter for a state fiscal year during which a transfer is to be made from the fund to the ~~property tax replacement~~ **state general** fund, the amount of the appropriation made under subsection (a) shall be reduced by the amount of the appropriation made under section 4 of this chapter. However, the amount of the appropriation made under subsection (a) may not be reduced to less than zero (0).

SECTION 10. IC 4-10-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) For the state fiscal year beginning July 1, 2003, and ending June 30, 2004, the state spending cap is equal to the result determined under STEP THREE of the following

formula:

STEP ONE: Determine the sum of the total of the appropriations made from the state general fund and the property tax replacement fund (including continuing appropriations) for the state fiscal year beginning July 1, 2002, and ending June 30, 2003.

STEP TWO: Subtract from the STEP ONE result two hundred forty-three million dollars ($243,000,000), which is the amount of certain reversions made by state agencies.

STEP THREE: Multiply the STEP TWO result by one and thirty-five thousandths (1.035).

(b) For the state fiscal year beginning July 1, 2004, and ending June 30, 2005, the state spending cap is equal to the product of the result determined under subsection (a) multiplied by one and thirty-five thousandths (1.035).

(c) The state spending cap for a state fiscal year beginning after June 30, 2005, is equal to the product of the state spending growth quotient for the state fiscal year determined under section 3 of this chapter multiplied by the state spending cap for the immediately preceding state fiscal year.

(d) The state spending cap imposed under this section is increased in the initial state fiscal year in which the state receives additional revenue for deposit in the state general fund ~~or property tax replacement fund~~ as a result of the enactment of a law that:

(1) establishes a new tax or fee after June 30, 2002;

(2) increases the rate of a previously enacted tax or fee after June 30, 2002; or

(3) reduces or eliminates an exemption, a deduction, or a credit against a previously enacted tax or fee after June 30, 2002.

The amount of the increase is equal to the average revenue that the budget agency estimates will be raised by the legislative action in the initial two (2) full state fiscal years in which the legislative change is in effect.

(e) The state spending cap imposed under this section is decreased in the initial state fiscal year in which the state is affected by a decrease in revenue deposited in the state general fund ~~or property tax replacement fund~~ as the result of the enactment of a law that:

(1) eliminates a tax or fee after June 30, 2002;

(2) eliminates any part of a tax rate or fee after June 30, 2002; or

(3) establishes or increases an exemption, a deduction, or a credit against a tax or fee after June 30, 2002.

The amount of the decrease is equal to the average revenue that the budget agency estimates will be lost as a result of the legislative action in the

initial two (2) full state fiscal years in which the legislative change is in effect.

SECTION 11. IC 4-10-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) The maximum total amount that may be expended in a state fiscal year from the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund is the least of the following:

(1) Subject to sections 6 and 7 of this chapter, the state spending cap for the state fiscal year.

(2) The amount appropriated by the general assembly from the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund.

(3) The amount of money available in the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund to pay expenditures.

(b) Subject to sections 6 and 7 of this chapter, if the state spending cap for the state fiscal year is less than the amount appropriated by the general assembly in the state fiscal year from the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund, the budget agency shall reduce the amounts available for expenditure from the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund in the state fiscal year by using the procedures in IC 4-13-2-18.

SECTION 12. IC 4-10-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. The following expenditures that would otherwise be subject to this chapter shall be excluded from all computations and determinations related to a state spending cap:

(1) Expenditures derived from money deposited in the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund from any of the following:

(A) Gifts.

(B) Federal funds.

(C) Dedicated funds.

(D) Intergovernmental transfers.

(E) Damage awards.

(F) Property sales.

(2) Expenditures for any of the following:

(A) Transfers of money among the state general fund ~~the property tax replacement fund,~~ and the counter-cyclical revenue and economic stabilization fund.

(B) Reserve fund deposits.

(C) Refunds of intergovernmental transfers.

(D) Payment of judgments against the state and settlement payments made to avoid a judgment against the state, other than a judgment or settlement payment for failure to pay a contractual obligation or a personnel expenditure.

(E) Distributions or allocations of state tax revenues to a unit of local government under IC 36-7-13, IC 36-7-26, IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.

(F) Motor vehicle excise tax replacement payments that are derived from amounts transferred to the state general fund from the lottery and gaming surplus account of the build Indiana fund.

(G) Distributions of state tax revenues collected under IC 7.1 that are payable to cities and towns.

SECTION 13. IC 4-12-1-12, AS AMENDED BY P.L.2-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) Within forty-five (45) days following the adjournment of the regular session of the general assembly, the budget agency shall examine the acts of such general assembly and, with the aid of its own records and those of the budget committee, shall prepare a complete list of all appropriations made by law for the budget period beginning on July 1 following such regular session, or so made for such other period as is provided in the appropriation. While such list is being made by it the budget agency shall review and analyze the fiscal status and affairs of the state as affected by such appropriations. A written report thereof shall be made and signed by the budget director and shall be transmitted to the governor and the auditor of state. The report shall be transmitted in an electronic format under IC 5-14-6 to the general assembly.

(b) Not later than the first day of June of each calendar year, the budget agency shall prepare a list of all appropriations made by law for expenditure or encumbrance during the fiscal year beginning on the first day of July of that calendar year. ~~At the same time, the budget agency shall establish the amount of a reserve from the general fund surplus which such agency estimates will be necessary and required to provide funds with which to pay the distribution to local school units required by law to be made so early in such fiscal year that revenues received in such year prior to the distribution will not be sufficient to cover such distribution. Not later than the first day of June following adjournment of such regular session of the general assembly the amounts of the appropriations for such~~

~~fiscal year, and the amount of such reserve, shall be written and transmitted formally to the auditor of state who then shall establish the amounts of such appropriations, and the amount of such reserve, in the records of the auditor's office as fixed in such communication of the budget agency.~~

(c) Within sixty (60) days following the adjournment of any special session of the general assembly, or within such shorter period as the circumstances may require, the budget agency shall prepare for and transmit to the governor and members of the general assembly and the auditor of state, like information **and a** list of sums appropriated, ~~and if required, an estimate for a reserve from the general fund surplus for distribution to local school units,~~ all as is done upon the adjournment of a regular session, pursuant to subsections (a) and (b) of this section to the extent the same are applicable. The budget agency shall transmit any information under this subsection to the general assembly in an electronic format under IC 5-14-6.

(d) The budget agency shall administer the allotment system provided in IC 4-13-2-18.

(e) The budget agency may transfer, assign, and reassign any appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by IC 5-10.4-2, made for one specific use or purpose to another use or purpose of the agency of state to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request of and with the consent of the agency of state whose appropriations are involved. Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency.

(f) One (1) or more emergency or contingency appropriations for each fiscal year or for the budget period may be made to the budget agency. Such appropriations shall be in amounts definitely fixed by law, or ascertainable or determinable according to a formula, or according to appropriate provisions of law taking into account the revenues and income of the agency of state. No transfer shall be made from any such

appropriation to the regular appropriation of an agency of the state except upon an order of the budget agency made pursuant to the authority vested in it hereby or otherwise vested in it by law.

SECTION 14. IC 4-12-1-15.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2008]: **Sec. 15.7. (a) As used in this section, "fund" refers to the state tuition reserve fund.**

(b) The state tuition reserve fund is established for the following purposes:

(1) To fund a tuition support distribution under IC 20-43 whenever the budget director determines that state general fund cash balances are insufficient to cover the distribution.

(2) To meet revenue shortfalls whenever the budget director, after review by the budget committee, determines that state tax revenues available for deposit in the state general fund will be insufficient to fully fund tuition support distributions under IC 20-43 in any particular state fiscal year.

(c) The fund consists of the following:

(1) Money appropriated to the fund by the general assembly.

(2) Money transferred to the fund under any law.

(3) Interest earned on the balance of the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert for any other purpose of the state general fund.

(f) The budget agency shall administer the fund. Whenever the budget director makes a determination under subsection (b)(1) or (b)(2), the budget agency shall notify the auditor of state of the amount from the fund to be used for state tuition support distributions. The auditor of state shall transfer the amount from the fund to the state general fund. The amount transferred may be used only for the purposes of making state tuition support distributions under IC 20-43. If the amount is transferred under subsection (b)(1), the amount shall be repaid to the fund from the state general fund before the end of the state fiscal year in which the transfer is made.

SECTION 15. IC 4-24-7-4, AS AMENDED BY P.L.246-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. ~~(a)~~ Accounts of state institutions described

in ~~sections 1 and 3 of~~ this chapter shall be paid as follows:

(1) All such accounts shall be signed by the superintendent of such institution, attested to by the seal of the institution, and forwarded to the auditor of the county for payment from which county the inmate or patient was admitted.

(2) All accounts accruing between January 1 and June 30 of each year shall be forwarded to the county auditor on or before October 1 of such year.

(3) All accounts accruing between July 1 and December 31 of each year shall be forwarded to the county auditor on or before April 1 of the following year.

(4) Upon receipt of any such account, the county auditor shall draw a warrant on the treasurer of the county for the payment of the account, and the same shall be paid out of the funds of the county appropriated therefor.

(5) The county council of each county of the state shall annually appropriate sufficient funds to pay such accounts.

~~(b) All accounts of state institutions described in section 2 of this chapter shall be paid as follows:~~

~~(1) All such accounts shall be signed by the superintendent of the institution, attested to by the seal of the institution, and forwarded to the auditor of the county for payment from the county from which the inmate was admitted.~~

~~(2) All accounts accruing after December 31 and before April 1 of each year shall be forwarded to the county auditor on or before May 15 of that year.~~

~~(3) All accounts accruing after March 31 and before July 1 of each year shall be forwarded to the county auditor on or before August 15 of that year.~~

~~(4) All accounts accruing after June 30 and before October 1 of each year shall be forwarded to the county auditor on or before November 15 of that year.~~

~~(5) All accounts accruing after September 30 and before January 1 of each year, and any reconciliations for previous periods, shall be forwarded to the county auditor on or before March 15 of the following year.~~

~~(6) Upon receipt of an account, the county auditor shall draw a warrant on the treasurer of the county for the payment of the account, which shall be paid from the funds of the county that were appropriated for the payment.~~

~~(7) The county council of each county shall annually appropriate sufficient funds to pay these accounts.~~

~~If a county has not paid an account within six (6) months after the account is forwarded under this subsection, the auditor of state shall, notwithstanding anything to the contrary in IC 6-1.1-21, reduce the next distribution of property tax replacement credits under IC 6-1.1-21 to the county and withhold the amount owed on the account. The auditor of state shall credit the withheld amount to the state general fund for the purpose of curing the default. The account is then considered paid. A county that has the county's distribution reduced under this subsection shall apply the withheld amount only to the county unit's share of the distribution and may not reduce a distribution to any other civil taxing unit or school corporation within the county.~~

SECTION 16. IC 4-30-16-3, AS AMENDED BY P.L.2-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) The commission shall transfer the surplus revenue in the administrative trust fund as follows:

(1) Before the last business day of January, April, July, and October, the commission shall transfer to the treasurer of state, for deposit in the Indiana state teachers' retirement fund (IC 5-10.4-2), seven million five hundred thousand dollars ($7,500,000). Notwithstanding any other law, including any appropriations law resulting from a budget bill (as defined in IC 4-12-1-2), the money transferred under this subdivision shall be set aside in the pension stabilization fund (IC 5-10.4-2-5) to be used as a credit against the unfunded accrued liability of the pre-1996 account (as defined in IC 5-10.4-1-12) of the Indiana state teachers' retirement fund. The money transferred is in addition to the appropriation needed to pay benefits for the state fiscal year.

(2) Before the last business day of January, April, July, and October, the commission shall transfer

~~(A)~~ ~~two~~ **seven** million five hundred thousand dollars ~~($2,500,000)~~ **($7,500,000)** of the surplus revenue to the treasurer of state for deposit in ~~the "k" portion of~~ the pension relief fund (IC 5-10.3-11). ~~and~~

~~(B) five million dollars ($5,000,000) of the surplus revenue to the treasurer of state for deposit in the "m" portion of the pension relief fund (IC 5-10.3-11).~~

(3) The surplus revenue remaining in the fund on the last day of January, April, July, and October after the transfers under

subdivisions (1) and (2) shall be transferred by the commission to the treasurer of state for deposit on that day in the build Indiana fund.

(b) The commission may make transfers to the treasurer of state more frequently than required by subsection (a). However, the number of transfers does not affect the amount that is required to be transferred for the purposes listed in subsection (a)(1) and (a)(2). Any amount transferred during the month in excess of the amount required to be transferred for the purposes listed in subsection (a)(1) and (a)(2) shall be transferred to the build Indiana fund.

SECTION 17. IC 4-33-12-6, AS AMENDED BY HEA 1137-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:

(A) the city in which the riverboat is docked, if the city:

(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or

(ii) is contiguous to the Ohio River and is the largest city in the county; and

(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar ($1) is in addition to the one dollar ($1) received under subdivision (1)(B).

(3) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-13-3.

(5) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Except as provided in subsection (k) and section 7 of this chapter, sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat located in a historic hotel district, the treasurer of state shall quarterly pay the

following amounts:

(1) Twenty-two percent (22%) of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty-two and seventy-five hundredths percent (22.75%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty-two and seventy-five hundredths percent (22.75%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Fifty-four and five-tenths percent (54.5%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive.

(2) Five percent (5%) of the admissions tax collected during the quarter shall be paid to a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least twenty percent (20%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(3) Five percent (5%) of the admissions tax collected during the quarter shall be paid to a town having a population of more than

three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least twenty percent (20%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(4) Twenty percent (20%) of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

At least twenty percent (20%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(5) Ten percent (10%) of the admissions tax collected during the quarter shall be paid to the Orange County development commission established under IC 36-7-11.5. At least one-third (1/3) of the taxes paid to the Orange County development commission under this subdivision must be transferred to the Orange County convention and visitors bureau.

(6) Thirteen percent (13%) of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

(7) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the Indiana economic development corporation to be used by the corporation for the development and implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:

(A) Job creation and retention.

(B) Infrastructure, including water, wastewater, and storm water infrastructure needs.

(C) Housing.

(D) Workforce training.

(E) Health care.

(F) Local planning.

(G) Land use.

(H) Assistance to regional economic development groups.

(I) Other regional development issues as determined by the Indiana economic development corporation.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents ($0.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent ($0.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-13-3.

(6) Except as provided in subsection (k), ten cents ($0.10) of the

admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsection (k) and section 7 of this chapter, sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) through (c)(4), or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of

state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

(1) exceeds a particular entity's base year revenue; and

(2) would otherwise be due to the entity under this section;

to the ~~property tax replacement~~ **state general** fund instead of to the entity.

SECTION 18. IC 4-33-13-5, AS AMENDED BY HEA 1137-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the ~~property tax replacement~~ **state general** fund. In each state fiscal year, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the ~~property tax replacement~~ **state general** fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue remitted by the operating agent under this chapter as follows:

(1) Thirty-seven and one-half percent (37.5%) shall be paid to the ~~property tax replacement~~ **state general** fund. ~~established under IC 6-1.1-21.~~

(2) Nineteen percent (19%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this subdivision shall be paid to the ~~property tax replacement~~ **state general** fund. ~~established under IC 6-1.1-21.~~

(3) Eight percent (8%) shall be paid to the Orange County development commission established under IC 36-7-11.5.

(4) Sixteen percent (16%) shall be paid in equal amounts to each town that is located in the county in which the riverboat docks and contains a historic hotel. The following apply to taxes received by a town under this subdivision:

(A) At least twenty-five percent (25%) of the taxes must be transferred to the school corporation in which the town is located.

(B) At least twelve and five-tenths percent (12.5%) of the taxes must be transferred to the Orange County convention and visitors bureau.

(5) Nine percent (9%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty-two and twenty-five hundredths percent (22.25%) shall be quarterly distributed to the county treasurer of a county

having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty-two and twenty-five hundredths percent (22.25%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Fifty-five and five-tenths percent (55.5%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive.

(6) Five percent (5%) shall be paid to a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(7) Five percent (5%) shall be paid to a town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(8) Five-tenths percent (0.5%) shall be paid to the Orange County convention and visitors bureau.

(c) For each city and county receiving money under subsection (a)(2), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year, the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city's or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the ~~property tax replacement~~ **state general** fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the ~~property tax replacement~~ **state general** fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32.2-7-7.

(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the ~~property tax replacement~~ **state general** fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the ~~property tax replacement~~ **state general** fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of each year, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the

town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5).

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for ~~additional credits for property tax replacement in property tax increment allocation areas or~~ debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of each year, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the ~~property tax replacement~~ **state general** fund. Except as provided in subsection (i), the amount of an entity's supplemental distribution is equal to:

(1) the entity's base year revenue (as determined under IC 4-33-12-6); minus

(2) the sum of:

(A) the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6; plus

(B) any amounts deducted under IC 6-3.1-20-7.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county

under subsection (e) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

(i) This subsection applies only to the Indiana horse racing commission. For each state fiscal year the amount of the Indiana horse racing commission's supplemental distribution under subsection (g) must be reduced by the amount required to comply with IC 4-33-12-7(a).

SECTION 19. IC 4-35-5-3, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) A permit holder that is issued a gambling game license under this article must pay to the commission an initial licensing fee of two hundred fifty million dollars ($250,000,000) as follows:

(1) One hundred fifty million dollars ($150,000,000) payable before November 1, 2007.

(2) One hundred million dollars ($100,000,000) payable before November 1, 2008.

(b) The commission shall deposit any initial licensing fees collected under this section into the ~~property tax reduction trust~~ **state general** fund. ~~established by IC 4-35-8-2. Subject to an appropriation by the general assembly, money deposited into the property tax reduction trust fund under this section may be used to provide property tax relief in any manner prescribed by the general assembly.~~

SECTION 20. IC 4-35-5-4, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) An initial gambling game license expires five (5) years after the effective date of the license. Unless the gambling game license is terminated or revoked, the gambling game license may be renewed annually thereafter upon:

(1) the payment of an annual renewal fee of one hundred dollars ($100) per slot machine operated by the licensee; and

(2) a determination by the commission that the licensee satisfies the conditions of this chapter.

Renewal fees paid under this section shall be deposited in the ~~property tax reduction trust~~ **state general** fund. ~~established by IC 4-35-8-2.~~

(b) Except as provided in subsection (c), an initial gaming license may not be transferred by the initial licensee for at least five (5) years after the effective date of the license.

(c) A gambling game license may be transferred for any of the following reasons:

(1) As a result of a bankruptcy, a receivership, or a debt adjustment initiated by or against the initial licensee or the substantial owners of the initial licensee.

(2) Because:

(A) the licensee's license has been cancelled, terminated, or revoked by the commission; or

(B) the commission determines that transferring the license is in the best interests of Indiana.

(3) Because of the death of a substantial owner of the initial licensee.

A transfer permitted under this subsection is subject to section 7 of this chapter.

SECTION 21. IC 4-35-7-12, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) Except as provided in subsections (j) and (k), a licensee shall before the fifteenth day of each month devote to the gaming integrity fund, horse racing purses, and to horsemen's associations an amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at the licensee's racetrack. The Indiana horse racing commission may not use any of this money for any administrative purpose or other purpose of the Indiana horse racing commission, and the entire amount of the money shall be distributed as provided in this section. A licensee shall pay the first two hundred fifty thousand dollars ($250,000) distributed under this section in a state fiscal year to the commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the commission, a licensee shall distribute the remaining money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) Sixty percent (60%) for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) Forty percent (40%) to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Fifty percent (50%) for the following purposes:

(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.

(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.

(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.

(3) Eight percent (8%) for quarter horse purposes as follows:

(A) Seventy percent (70%) for the following purposes:

(i) Ninety-five percent (95%) for quarter horse purses.

(ii) Five percent (5%) to the horsemen's association representing quarter horse owners and trainers.

(B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(e) Money distributed under subsection (b)(1) and (b)(2) shall be allocated as follows:

(1) Forty-six percent (46%) to the horsemen's association

representing thoroughbred owners and trainers.

(2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.

(3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:

(1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the money by the horsemen's association. The report must include information as required by the commission.

(2) The horsemen's association must register with the Indiana horse racing commission.

(g) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.

(h) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:

(1) issue a warning to the licensee;

(2) impose a civil penalty that may not exceed one million dollars ($1,000,000); or

(3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.

(i) A civil penalty collected under this section must be deposited in the state general fund.

(j) For a state fiscal year beginning after June 30, 2008, and ending

before July 1, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) eighty-five million dollars ($85,000,000).

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the ~~property tax reduction trust~~ **state general** fund. ~~established by IC 4-35-8-2.~~ The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

(k) For a state fiscal year beginning after June 30, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) the amount dedicated to the purposes described in subsection (b) in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the ~~property tax reduction trust~~ **state general** fund. ~~established by IC 4-35-8-2.~~ The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

SECTION 22. IC 4-35-8-3, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. The department shall deposit tax revenue collected under section 1 of this chapter in the ~~property tax reduction trust~~ **state general** fund.

SECTION 23. IC 5-1-5-1, AS AMENDED BY P.L.2-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The following terms as used in this chapter have the following meanings:

(a) "Governing body" means the council, commission, board of

commissioners, board of directors, board of trustees, or other legislative body in which the legislative powers of the issuing body are vested.

(b) "Issuing body" means the state of Indiana, its agencies, commissions, universities, colleges, institutions, political subdivisions, counties, school corporations, hospital associations, municipal and quasi-municipal corporations, special taxing districts, and any corporation which has issued bonds payable directly or indirectly from lease rentals payable by any of the foregoing issuing bodies, now or hereafter existing under the laws of the state.

(c) "Bond" means any revenue bond, general obligation bond, or advance refunding bond.

(d) "Revenue bond" means any bond note, warrant, certificate of indebtedness, or other obligation, including a certificate or other evidence of participation in the lessor's interest in and rights under a lease, for the payment of money issued by an issuing body or any predecessor of any issuing body which is payable from designated revenues, rental payments, special benefits, taxes, or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation and any obligation payable solely from special assessments or special assessments and a guaranty fund.

(e) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of an issuing body which constitutes an indebtedness within the meaning of the constitutional debt limitation.

(f) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first subject to redemption or maturing after the date of the advance refunding bonds.

(g) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the issuing body exercising any power hereunder takes formal action and adopts legislative provisions and matters of some permanency.

(h) "Corporation which has issued bonds" means a corporation organized under IC 20-47-2 or IC 20-47-3, the laws of any state of the United States of America or of the United States of America, including any bank, trust company, or national association serving as a trustee under an indenture providing for issuance of bonds.

(i) "Local issuing body" means an issuing body that is:

(1) a political subdivision (as defined in IC 36-1-2-13);

(2) a district (as defined in IC 6-1.1-21.2-5); or

(3) a corporation or other entity that:

(A) is not a body corporate and politic established as an instrumentality of the state; and

(B) has issued bonds that are payable directly or indirectly from lease rentals payable by a political subdivision or district described in subdivision (1) or (2).

(j) "Special benefit taxes" means a special tax levied and collected on an ad valorem basis on property for the purpose of financing local public improvements that:

(1) are not political or governmental in nature; and

(2) are of special benefit to the residents and property of the area.

(k) "Tax increment revenues" means an allocation of:

(1) ad valorem property taxes;

(2) state or local adjusted gross income taxes; or

(3) state or local gross retail and use taxes;

to a redevelopment district that is based on an increase in the assessed value, wages, sales, or other economic activity occurring in a designated area. The term includes allocations described in IC 5-28-26-9, IC 6-1.1-21.2-10, IC 36-7-26-10, IC 36-7-27-8, IC 36-7-31-6, and IC 36-7-31.3-4.

(l) "Redevelopment district" refers to the following:

(1) An airport development zone under IC 8-22-3.5.

(2) A redevelopment district established under:

(A) IC 36-7-14; or

(B) IC 36-7-15.1.

(3) A special taxing district described in:

(A) IC 36-7-14.5-12.5(d); or

(B) IC 36-7-30-3(b).

(4) Another public entity to which tax increment revenues are allocated.

~~(i)~~ **(m)** Words used in this chapter importing singular or plural number may be construed so that one (1) number includes both.

SECTION 24. IC 5-1-5-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) This section applies to bonds that are:**

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds

to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) The last date permitted under an agreement for the payment of principal and interest on bonds that are issued to retire or otherwise refund other revenue bonds or general obligation bonds may not extend beyond the maximum term of the bonds being refunded.

SECTION 25. IC 5-1-5-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18. (a) This section applies to bonds that are:**

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) Savings (as computed under section 2 of this chapter) that accrue from the issuance of bonds to retire or otherwise refund other bonds may be used only for the following purposes:

(1) To maintain a debt service reserve fund for the refunding bonds at the level required under the terms of the refunding bonds, if the local issuing body adopts an ordinance, resolution, or order authorizing that use of the proceeds or earnings.

(2) To pay the principal or interest, or both, on:

(A) the refunding bonds; or

(B) other bonds, if the issuing body approves an ordinance authorizing the use of the savings to pay principal or interest on other bonds.

(3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

SECTION 26. IC 5-1-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. ~~As used in~~ **The definitions in this section apply throughout** this chapter:

(1) "Bonds" has the same definition that the term is given in IC 5-1-11-1.

(2) "Local issuing body" has the meaning set forth in IC 5-1-5-1.

(3) "Political subdivision" has the same definition that the term is given in IC 36-1-2-13.

(4) "Special benefit taxes" has the meaning set forth in

IC 5-1-5-1.

(5) "Tax increment revenues" has the meaning set forth in IC 5-1-5-1.

SECTION 27. IC 5-1-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Notwithstanding any other law, whenever:

(1) bonds are issued by any ~~political subdivision~~ **local issuing body** in the state of Indiana for any lawful purpose or project;

(2) the purpose or project for which the bonds were issued has been accomplished or abandoned; and

(3) a surplus remains from the proceeds of the bonds or investment earnings derived from the proceeds of those bonds;

the ~~political subdivision~~ **local issuing body** may use the surplus only in the manner prescribed by subsection (b), ~~or~~ (c), **or (d).**

(b) The legislative body **or other governing body** of any such ~~political subdivision~~ **local issuing body** may by an order, ordinance, or resolution entered of record direct the disbursing officer of such ~~political subdivision~~ **local issuing body** to transfer the surplus bond proceeds or investment earnings to the fund of the ~~political subdivision~~ **local issuing body** pledged to the payment of principal and interest on those bonds, and upon such order, ordinance, or resolution being made, the disbursing officer shall make such transfer. Thereafter such funds transferred shall be used for the payment of the bonds to which the surplus bond proceeds or investment earnings are attributable or interest due for such bonds.

(c) Surplus bond proceeds or investment earnings may be used by a local issuing body for the following purposes:

(1) To maintain a debt service reserve fund for the bonds to which the surplus bond proceeds or investment earnings are attributable, at the level required under the terms of the bonds, if the local issuing body adopts an ordinance, resolution, or order authorizing that use of the proceeds or earnings.

(2) To pay the principal or interest, or both, on any other bonds of the local issuing body, if the local issuing body adopts an ordinance, a resolution, or an order authorizing the use of the surplus proceeds to pay principal or interest on the bonds.

(3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

~~(c)~~ **(d) This section applies to bonds that are not payable from ad valorem property taxes, special benefit taxes on property, or tax**

increment revenues derived from property taxes. Surplus bond proceeds or investment earnings may be used by a ~~political subdivision~~ **local issuing body** for the same purpose or type of project for which the bonds were originally issued, if:

(1) the fiscal officer of the ~~political subdivision~~ **local issuing body** certifies before or at the time of that use that the surplus was not anticipated at the time of issuance of the bonds; and

(2) the board or legislative body responsible for issuing the bonds takes action approving the use of surplus bond proceeds or investment earnings for the same purpose or type of project for which the bonds were originally issued.

SECTION 28. IC 5-1-14-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.3. The following definitions apply throughout this chapter:**

(1) "Local issuing body" has the meaning set forth in IC 5-1-5-1.

(2) "Special benefit taxes" has the meaning set forth in IC 5-1-5-1.

(3) "Tax increment revenues" has the meaning set forth in IC 5-1-5-1.

SECTION 29. IC 5-1-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) If an issuer has issued obligations under a statute that establishes a maximum term or repayment period for the obligations, notwithstanding that statute, the issuer may continue to make payments of principal, interest, or both, on the obligations after the expiration of the term or period if principal or interest owed to owners of the obligations remains unpaid.

(b) This section does not authorize the use of revenues or funds to make payments of principal and interest other than those revenues or funds that were pledged for the payments before the expiration of the term or period.

(c) Except as otherwise provided by this section, IC 36-7-12-27, or IC 36-7-14-25.1, the maximum term or repayment period for obligations issued after June 30, 2008, that are wholly or partially payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes may not exceed:

(1) the maximum applicable period under federal law, for obligations that are issued to evidence loans made or guaranteed by the federal government or a federal agency;

(2) twenty-five (25) years, for obligations that are wholly or partially payable from tax increment revenues derived from property taxes; or

(3) twenty (20) years, for obligations that are not described in subdivision (1) or (2) and are wholly or partially payable from ad valorem property taxes or special benefit taxes on property.

SECTION 30. IC 5-1-14-15, AS ADDED BY P.L.234-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) **Before July 1, 2008,** a county or municipality may issue bonds, notes, or other obligations for the purpose of providing funds to pay pension benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5.

(b) Notwithstanding any other law:

(1) bonds, notes, or other obligations issued for the purpose described in this section may have a final maturity date up to, but not exceeding, forty (40) years from the date of original issuance;

(2) the amount of bonds, notes, or other obligations that may be issued for the purpose described in this section may not exceed two percent (2%) of the true tax value of property located within the county or municipality; and

(3) the proceeds of bonds, notes, or other obligations issued for the purpose described in this section may be deposited to the issuing county's or municipality's separate account described in IC 5-10.3-11-6.

(c) This section is supplemental to all other laws but does not relieve a county or municipality from complying with other procedural requirements for the issuance of bonds, notes, or other obligations.

SECTION 31. IC 5-1-14-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. (a) This section applies to obligations that are:**

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including obligations that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) An agreement for the issuance of obligations must provide for the payment of principal and interest on the obligations in nearly equal payment amounts and at regular designated intervals over the maximum term of the obligations except to the extent that:

(1) interest for a particular repayment period has been paid from the proceeds of the obligations under section 6 of this chapter; or

(2) the local issuing body authorizes a different payment schedule to:

(A) maintain substantially equal payments, in the aggregate, in any period in which the local issuing body pays the interest and principal on outstanding obligations;

(B) provide for the payment of principal on the obligations in amounts and at intervals that will produce an aggregate amount of principal payments greater than or equal to the aggregate amount that would otherwise be paid as of the same date;

(C) provide for level principal payments over the term of the obligations, in order to reduce total interest costs; or

(D) with respect to obligations wholly or partially payable from tax increment revenues derived from property taxes, provide for the payment of principal and interest in varying amounts over the term of the obligations as necessary due to the variation in the amount of tax increment revenues available for those payments.

SECTION 32. IC 5-1-16-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) When the authority, the board of trustees or board of managers of the hospital, the board of commissioners of the county, and a majority of the county council have agreed upon the terms and conditions of any lease proposed to be entered into under section 38 or 39 of this chapter, and before the final execution of the lease, the county auditor shall give notice by publication of a public hearing to be held in the county by the board of commissioners. The hearing shall take place on a day not earlier than ten (10) days after the publication of the notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the county. The notice shall do the following:

(1) Name the day, place, and hour of the hearing.

(2) Set forth a brief summary of the principal terms of the lease agreed upon, including the character and location of the property to be leased, the lease rental to be paid, and the number of years the contract is to be in effect.

(3) State a location where the proposed lease, drawings, plans, specifications, and estimates may be examined.

The proposed lease and the drawings, plans, specifications, and estimates

of construction cost for the building shall be open to inspection by the public during the ten (10) day period and at the hearing. All interested persons shall have a right to be heard at the hearing on the necessity for the execution of the lease and whether the lease rental under the lease is fair and reasonable. The hearing may be adjourned to a later date with the place of the hearing fixed prior to adjournment. Following the hearing, the board of commissioners may either authorize the execution of the lease as originally agreed upon or may make modifications that are agreed upon by the authority, the board of trustees or board of managers of the hospital, and the county council. The authorization shall be by an order that is entered in the official records of the board of commissioners. The lease contract shall be executed on behalf of the county by the board of commissioners.

(b) If the execution of the lease as originally agreed upon or as modified by agreement is authorized, notice of the signing of the lease shall be given on behalf of the county by publication one (1) time in a newspaper of general circulation printed in the English language and published in the county. Except as provided in subsection (d), ten (10) or more taxpayers in the county whose tax rate will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of the lease or that the lease rental under the lease is not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the execution of the lease that sets forth the taxpayers' objections and facts supporting those objections. Upon the filing of a petition, the county auditor shall immediately certify a copy of the petition together with such other data as may be necessary in order to present the questions involved to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place in the affected county for the hearing of the matter that is not less than five (5) or more than fifteen (15) days after receipt. Notice of the hearing shall be given by the department of local government finance to the board of county commissioners and to the first ten (10) taxpayer petitioners upon the petition by certified mail sent to the addresses listed on the petition at least five (5) days before the date of the hearing.

(c) No action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease shall be instituted at any time later than thirty (30) days after publication of notice of the execution of the lease, or if an appeal has been taken to the

department of local government finance, then within thirty (30) days after the decision of the department.

(d) The authority for taxpayers to object to a proposed lease under subsection (b) does not apply if the authority complies with the procedures for the issuance of bonds and other evidences of indebtedness described in ~~IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2.~~ **IC 6-1.1-20.**

SECTION 33. IC 5-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The official bonds of officers, if sufficient, shall be approved as follows:

(1) Of county officers required to give bonds, by the clerk of the circuit court unless otherwise specified in this section.

(2) Of county sheriff, county coroner, county recorder, county auditor, county treasurer, and clerk of the circuit court, by the county executive.

(3) Of county assessor, township trustee, and township assessor **(if any),** by the county auditor.

(4) Of city officers, except the executive and members of the legislative body, by the city executive.

(5) Of members of the board of public works or of the board of public works and safety in cities, by the city legislative body.

(6) Of clerk-treasurer and marshal of a town, by the town legislative body.

(7) Of a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal), by the board of directors of the solid waste management district.

(b) A person who approves an official bond shall write the approval on the bond.

(c) A bond must be approved before it is filed.

SECTION 34. IC 5-4-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) Except as provided in subsection (b), the following city, town, county, or township officers and employees shall file an individual surety bond:

(1) City judges, controllers, clerks, and clerk-treasurers.

(2) Town judges and clerk-treasurers.

(3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.

(4) Township trustees. ~~and assessors.~~

(5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(6) Township assessors (if any).

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond or a crime insurance policy endorsed to include faithful performance to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit, including those officers described in subsection (a).

(c) The fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

(1) The amount must equal fifteen thousand dollars ($15,000) for each one million dollars ($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).

(2) The amount may not be less than fifteen thousand dollars ($15,000) nor more than three hundred thousand dollars ($300,000).

County auditors shall file bonds in amounts of not less than fifteen thousand dollars ($15,000), as fixed by the fiscal body of the county. The amount of the bond of any other person required to file an individual bond shall be fixed by the fiscal body of the unit at not less than eight thousand five hundred dollars ($8,500).

(d) A controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

(1) fixed by the board of directors of the solid waste management district; and

(2) that is at least fifteen thousand dollars ($15,000).

(e) Except as provided under subsection (d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(f) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report in an electronic format under IC 5-14-6 to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(g) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section, in consultation with the commission on public records under IC 5-15-5.1-6.

SECTION 35. IC 5-10.3-11-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) Monies from the pension relief fund shall be paid annually by the state board under the procedures specified in this section.

(b) ~~Before April 1 of~~ Each year, **before a date set by the state board,** each unit of local government must certify to the state board:

(1) the amount of payments made during the preceding year for benefits under its pension funds covered by this chapter, referred to in this section as "pension payments";

(2) the data determined necessary by the state board to perform an actuarial valuation of the unit's pension funds covered by this chapter; ~~and~~

(3) the names required to prepare the list specified in subsection (c); **and**

(4) any other information that is necessary for the state board to make distributions to units under this chapter.

A unit is ineligible to receive a distribution under this section if it does not supply ~~before April 1 of each year (i)~~ the complete information required by this subsection or ~~(ii)~~ a substantial amount of the information required if it is accompanied by an affidavit of the chief executive officer of the unit detailing the steps which have been taken to obtain the information and the reasons the complete information has not been obtained. This subsection supersedes the reporting requirement of IC 5-10-1.5 as it applies to pension funds covered by this chapter.

(c) ~~Before July 1 of~~ Each year, **before a date set by the state board,** the state board shall prepare a list of all police officers and firefighters, active, retired, and deceased if their beneficiaries are eligible for benefits, who are members of a police or fire pension fund that was established before May 1, 1977. The list may not include police officers, firefighters, or their beneficiaries for whom no future benefits will be paid. The state board shall then compute the present value of the accrued liability to provide the pension and other benefits to each person on the list.

(d) ~~Before July 1 of~~ Each year, **before a date set by the state board,** the state board shall determine the total pension payments made by all units of local government for the preceding year and shall estimate the total pension payments to be made to all units in the calendar year in which the July 1 occurs and in the following calendar year.

~~(e) Each calendar year, the state board shall, with respect to the following calendar year, determine for each unit of local government an amount (D_y). The state board shall, in two (2) equal installments before July 1 and before October 2, distribute to each eligible unit of local~~

~~government the amount (D_y) determined for the unit with respect to the following calendar year. The amount (D_y) shall be determined by the following STEPS:~~

~~STEP ONE. Subtract the total distribution made to units (D_{y-1}) in the preceding calendar year from the total pension payments made by units (P_{y-1}) in the preceding calendar year.~~

~~STEP TWO. Multiply the STEP ONE difference by (1+k) as (k) is determined in STEP THREE.~~

~~STEP THREE. Determine the annual percentage increase (k) in the STEP ONE difference which will allow the present value of all future estimated distributions, as computed under STEP FOUR, from the pension relief fund to equal the "k portion" of the pension relief fund balance plus the present value of all future receipts to the "k portion" of the fund, but which will not allow the "k portion" of the pension relief fund balance to be negative. These present values shall be determined based on the current long term actuarial assumptions. The "k portion" of the pension relief fund balance is the total pension relief fund balance less the "m portion" of the fund. The percentage increase (k) shall be computed to the nearest one thousandth of one percent (.001%). All years, after the year 2000, in which the receipts to the fund plus the net pension payments by all the units equal or exceed the total pension payments shall be ignored for the purposes of these calculations.~~

~~STEP FOUR. Subtract the STEP TWO product from the estimated total pension payments to be made by all units (P_y) in the calendar year for which the distribution is to be made.~~

~~STEP FIVE. Multiply the STEP FOUR difference by one-half (1/2) of the sum of two quotients, (1) the quotient of the unit's number of police officers and firefighters on December 31 of the year before the year of the distribution who are members of a pension fund established before May 1, 1977, who are retired, and who are deceased if their beneficiaries are eligible for benefits (unit) divided by the total number of these police officers and firefighters (total units) on December 31 of the year before the year of the distribution in all units plus (2) the quotient of the unit's pension payments (payments) divided by the total pension payments (total payments) by all units.~~

~~Expressed mathematically:~~

~~$D_y = (P_y - ((P_{y-1} - D_{y-1}) \times (1 + k))) \times ½$~~

~~(unit/(total unit) + payment/(total payment)).~~

~~(f) If in any year the distribution made to a unit of local government is larger than the unit's pension payments to its retirees and their~~

~~beneficiaries for that year, the excess may not be distributed to the unit but must be transferred to the 1977 police officers' and firefighters' pension and disability fund and the unit's contributions to that fund shall be reduced for that year by the amount of the transfer.~~

~~(g) If in any year after 2000, the STEP FOUR difference under subsection (e) is smaller than the revenue to the pension relief fund in that year, then the revenue plus interest plus the fund balance in that year shall be used in STEP FIVE of subsection (e) instead of the STEP FOUR difference.~~

~~(h) The state board shall have its actuary report annually on the appropriateness of the actuarial assumptions used in determining the distribution amount under subsection (e). At least every five (5) years, the state board shall have its actuary recompute the value of (k) under STEP TWO of subsection (e).~~

~~(i) Each calendar year the state board shall determine the amounts to be allocated to the "m portion" of the pension relief fund under the following STEPS, which shall be completed before July 1 of each year:~~

~~STEP ONE. The state board shall determine the following:~~

~~(1) "Excess earnings", which are the state board's projection of earnings for the calendar year from investments of the "k portion" of the fund that exceed the amount of earnings that would have been earned if the rate of earnings was the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e).~~

~~(2) "Prior deficit amount", which is:~~

~~(A) the amount of earnings that would have been earned under the rate assumed by the actuary of the state board in his calculation of (k) under STEP THREE of subsection (e); minus~~

~~(B) the amount of earnings received;~~

~~for a calendar year after 1981 in which (B) is less than (A).~~

~~STEP TWO. The state board shall distribute to the "m portion" the excess earnings less any prior deficit amounts.~~

~~(j) The "m portion" of the fund shall be any direct allocations plus:~~

~~(1) amounts allocated under subsection (i); and~~

~~(2) any earnings on the "m portion" less amounts previously distributed under subsection (l).~~

~~(k) The state board shall determine, based on actual experience and reasonable projections, the units eligible for distribution from the "m portion" of the pension relief fund according to the following STEPS:~~

~~STEP ONE. Determine the amount of pension payments to be paid by the unit in the calendar year, net of the amount of the distribution to be~~

~~received by the unit under subsection (c) in that year; plus contributions to be made under IC 36-8-8 in that year.~~

~~STEP TWO. Divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the calendar year.~~

~~STEP THREE. If the quotient determined under STEP TWO is equal to or greater than one-tenth (0.1), the unit shall receive a distribution under subsection (l).~~

~~(l) For a calendar year, the state board shall, before July 1 of the year, distribute from the "m portion" of the pension relief fund to the extent there are assets in the "m portion" to each eligible unit an amount, not less than zero (0), determined according to the following STEPS:~~

~~STEP ONE. For the first of consecutive years that a unit is eligible to receive a distribution under this subsection, determine the amount of pension payments paid by the unit in the calendar year two (2) years preceding the calendar year net of the amount of distributions received by the unit under subsection (c) in the calendar year two (2) years preceding the calendar year.~~

~~STEP TWO. For the first of consecutive years that a unit is eligible to receive a distribution under this subsection, divide the amount determined under STEP ONE by the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the calendar year two (2) years preceding the calendar year.~~

~~STEP THREE. For the first and all subsequent consecutive years that a unit is eligible to receive a distribution under this subsection, multiply the amount of the maximum permissible ad valorem property tax levy for the unit as determined under IC 6-1.1-18.5 for the calendar year by the quotient determined under STEP TWO.~~

~~STEP FOUR. Subtract the amount determined under STEP THREE from the amount of pension payments to be paid by the unit in the calendar year, net of distributions to be received under subsection (c) for the calendar year.~~

SECTION 36. IC 5-10.3-11-4.7, AS AMENDED BY P.L.234-2007, SECTION 277, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.7. (a) ~~In addition to the amounts distributed under sections 4 and 4.5 of this chapter,~~ **In 2009 and** each year **thereafter,** the state board shall distribute from the pension relief fund to each unit of local government ~~an amount determined under the following STEPS:~~

~~STEP ONE. Determine the amount of~~ the total **amount of** pension, **disability, and survivor benefit** payments **from the 1925 police**

pension fund (IC 36-8-6), the 1937 firefighters' pension fund (IC 36-8-7), and the 1953 police pension fund (IC 36-8-7.5) to be made by the unit in the calendar year, as estimated by the state board under section 4 of this chapter, **after subtracting any distributions to the unit from the public deposit insurance fund that will be used for benefit payments.**

~~STEP TWO: Determine the result of:~~

~~(A) the STEP ONE result; multiplied by~~

~~(B) fifty percent (50%).~~

~~STEP THREE: Determine the amount to be distributed in the current calendar year to the unit of local government under section 4 of this chapter.~~

~~STEP FOUR: Determine the greater of zero (0) or the result of:~~

~~(A) the STEP TWO result; minus~~

~~(B) the STEP THREE result.~~

(b) The state board shall make the distributions under subsection (a) in two (2) equal installments before July 1 and before October 2 of each year.

~~(c) This section expires January 1, 2011.~~

SECTION 37. IC 5-10.3-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) The state board shall maintain separate accounts for each unit of local government for purposes of this section. The accounts

~~(1)~~ are separate and distinct accounts within the public employees' retirement fund and the pension relief fund. ~~and~~

~~(2) are not part of the "k portion" or "m portion" of the pension relief fund.~~

(b) A unit of local government may do the following:

(1) Make deposits at any time to the separate account established for the unit under this section.

(2) Withdraw once each year from the unit's separate account all or a part of the balance in the account to pay pension benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5.

SECTION 38. IC 5-13-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) All taxes collected by the county treasurer shall be deposited as one (1) fund in the several depositories selected for the deposit of county funds and, except as provided in subsection (b), remain in the depositories until distributed at the following semiannual distribution made by the county auditor.

(b) Every county treasurer who, by virtue of the treasurer's office, is the collector of any taxes for any political subdivision wholly or partly within

the county shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a portion of the taxes collected before the semiannual distribution. The amount advanced may not exceed the lesser of:

(1) ninety-five percent (95%) of the total amount collected at the time of the advance; or

(2) ninety-five percent (95%) of the amount to be distributed at the semiannual distribution.

~~(c) Every county treasurer shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a part of the distributions received under IC 6-1.1-21-10 from the property tax replacement fund for the political subdivision. The amount advanced may not exceed the lesser of:~~

~~(1) ninety-five percent (95%) of the amount distributed from the fund to the county treasurer for the political subdivision at the time of the advance; or~~

~~(2) ninety-five percent (95%) of the total amount to be distributed by the county treasurer to the political subdivision on the next scheduled distribution date.~~

~~(d)~~ **(c)** Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

~~(e)~~ **(d)** At the semiannual distribution all the advances made to any political subdivision under subsection (b) ~~or (c)~~ shall be deducted from the total amount due any political subdivision as shown by the distribution.

SECTION 39. IC 5-13-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications

for a guarantee of an industrial development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under ~~subdivision~~ **clause** (A).

(2) Approve all expenses incidental to the operation of the public deposit insurance fund.

(3) Perform other duties and functions that may be delegated to the secretary-investment manager by the board or that are necessary to carry out the duties of the secretary-investment manager under this chapter.

(b) The secretary-investment manager shall keep a record of the proceedings of the board, and shall maintain and be custodian of all books, documents, and papers filed with the board, and its official seal. The secretary-investment manager may make copies of all minutes and other records and documents of the board, and may give certificates under seal of the board to the effect that the copies are true copies. All persons dealing with the board may rely upon the certificates.

(c) Each year, beginning in 2001 and ending in ~~2011,~~ **2021,** after the treasurer of state prepares the annual report required by IC 4-8.1-2-14, the secretary-investment manager shall determine:

(1) the amount of interest earned by the public deposit insurance fund during the state fiscal year ending on the preceding June 30, after deducting:

(A) all expenses and other costs of the board for depositories that were not paid from other sources during that state fiscal year; and

(B) all expenses and other costs associated with the Indiana education savings authority that were not paid from other sources during that state fiscal year; and

(2) the amount of interest earned during the state fiscal year ending on the preceding June 30 by the pension distribution fund established by subsection (g).

(d) On or before November 1 of each year, beginning in 2001 and ending in ~~2011,~~ **2021,** the public employees' retirement fund shall provide a report to the secretary-investment manager concerning the individual and aggregate payments made by all units of local government (as defined in IC 5-10.3-11-3) during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(e) On or before the last business day of November of each year, beginning in 2001 and ending in ~~2011,~~ **2021,** the secretary-investment

manager shall compute the amount of earned interest to be distributed under this section to each unit of local government (as defined in IC 5-10.3-11-3) in accordance with subsection (h) according to the following formula:

STEP ONE: Add the amount determined under subsection (c)(1) to the amount determined under subsection (c)(2).

STEP TWO: Divide the STEP ONE sum by the aggregate amount of payments made by all units of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).

STEP THREE: Multiply the STEP TWO quotient by the amount of payments made by each unit of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).

(f) Subject to subsection (j), on or before the last business day of December of each year, beginning in 2001 and ending in ~~2011,~~ **2021,** the secretary-investment manager shall provide to the auditor of state:

(1) a report setting forth the amounts to be distributed to units of local government, as determined under subsection (e); and

(2) a check payable from the public deposit insurance fund to the pension distribution fund established by subsection (g) in an amount equal to the amount determined under subsection (c)(1).

(g) The pension distribution fund is established. The pension distribution fund shall be administered by the treasurer of state. The treasurer of state shall invest money in the pension distribution fund not currently needed to meet the obligations of the pension distribution fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the pension distribution fund. Money in the pension distribution fund at the end of a state fiscal year does not revert to the state general fund.

(h) Subject to subsection (j), on June 30 and October 1 of each year, beginning in 2002 and ending in ~~2012,~~ **2022,** the auditor of state shall distribute in two (2) equal installments from the pension distribution fund to the fiscal officer of each unit of local government identified under subsection (d) the amount computed for that unit under subsection (e) in November of the preceding year.

(i) Each unit of local government shall deposit distributions received under subsection (h) in the pension fund or funds identified by the

secretary-investment manager and shall use those distributions to pay a portion of the obligations with respect to the pension fund or funds.

(j) Before providing a check to the auditor of state under subsection (f)(2) in December of any year, the secretary-investment manager shall determine:

(1) the total amount of payments made from the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001;

(2) the total amount of payments received by the board for depositories and deposited in the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001; and

(3) the total amount of interest earned by the public deposit insurance fund after the first of the payments described in subdivision (1).

If the total amount of payments determined under subdivision (1) less the total amount of payments determined under subdivision (2) (referred to in this subsection as the "net draw on the fund") exceeds ten million dollars ($10,000,000) and also exceeds the total amount of interest determined under subdivision (3), the secretary-investment manager may not provide a check to the auditor of state under subsection (f)(2) and a distribution may not be made from the pension distribution fund under subsection (h) in the following calendar year until the total amount of interest earned by the public deposit insurance fund equals the net draw on the fund. A check may not be provided under subsection (f)(2) and a distribution may not be made under subsection (f) in any subsequent calendar year if a study conducted by the board under section 7(b) of this chapter demonstrates that payment of the distribution would reduce the balance of the public deposit insurance fund to a level insufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

SECTION 40. IC 5-28-9-16, AS AMENDED BY P.L.2-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. A qualified entity receiving a loan under this chapter may levy an annual tax on personal and real property located within the qualified entity's geographical limits for industrial development purposes, in addition to any other tax authorized by statute to be levied for such purposes, at a rate that will produce sufficient revenue to pay the annual installment and interest on a loan made under this chapter. The tax may be in addition to the maximum annual rates prescribed by IC 6-1.1-18, IC 6-1.1-18.5, ~~IC 20-45-3,~~ and other statutes.

SECTION 41. IC 5-28-15-3, AS ADDED BY P.L.214-2005, SECTION

7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, deduction, or exemption incentive available under this chapter, ~~IC 6-1.1-20.8,~~ IC 6-1.1-45, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.

SECTION 42. IC 5-28-15-5, AS ADDED BY P.L.214-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars ($1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites. ~~and the availability of the credit provided by IC 6-1.1-20.7 to persons~~

~~owning inventory located on an industrial recovery site.~~

(10) To make determinations under ~~IC 6-1.1-20.7 and~~ IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by ~~those chapters~~ **that chapter** in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 43. IC 5-28-15-8, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

(1) The board.

(2) A U.E.A.

(3) The department of state revenue.

(4) The corporation.

(5) The department of local government finance.

(6) A county auditor.

(7) A township assessor **(if any).**

(8) A county assessor.

(b) A person or an entity listed in subsection (a) may request a second person or entity described in subsection (a) to provide any records or other

information maintained by the second person or entity that concern an individual or a business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person or entity to whom the request is made under this section must comply with the request. A person or entity receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person or an entity that receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

SECTION 44. IC 5-28-26-18, AS ADDED BY P.L.203-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A unit may issue bonds for the purpose of providing public facilities under this chapter.

(b) The bonds are payable from any funds available to the unit.

(c) The bonds shall be authorized by a resolution of the unit.

(d) The terms and form of the bonds shall be set out either in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within:

(1) fifty (50) years, **for bonds issued before July 1, 2008; or**

(2) twenty-five (25) years, for bonds issued after June 30, 2008.

(f) The unit shall sell the bonds at public or private sale upon terms determined by the district.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a global commerce center, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include the cost of:

(1) planning and development of the public facilities and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the public facilities suitable for use and operation;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the district, but not to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on, the bonds being refunded or refinanced.

(h) A unit that issues bonds under this section may enter an interlocal agreement with any other unit located in the area served by the district in which the global commerce center is designated. A party to an agreement under this section may pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, to the bonds or lease rental obligations of another party to the agreement.

SECTION 45. IC 6-1.1-1-1.5, AS AMENDED BY P.L.88-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) "Assessing official" means:

(1) a township assessor **(if any);**

(2) a county assessor; or

~~(2)~~ **(3)** a member of a county property tax assessment board of appeals.

(b) The term "assessing official" does not grant a member of the county property tax assessment board of appeals primary assessing functions except as may be granted to the member by law.

SECTION 46. IC 6-1.1-1-3, AS AMENDED BY P.L.2-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), "assessed value" or "assessed valuation" means an amount equal to:

(1) for assessment dates before March 1, 2001, thirty-three and one-third percent (33 1/3%) of the true tax value of property; and

(2) for assessment dates after February 28, 2001, the true tax value of property.

(b) For purposes of calculating a budget, rate, or levy under IC 6-1.1-17, IC 6-1.1-18, IC 6-1.1-18.5, IC 6-1.1-20, ~~IC 20-45-3,~~ IC 20-46-4, IC 20-46-5, and IC 20-46-6, "assessed value" or "assessed valuation" does not include the assessed value of tangible property excluded and kept separately on a tax duplicate by a county auditor under IC 6-1.1-17-0.5.

SECTION 47. IC 6-1.1-1-8.4 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 8.4. "Inventory" means:**

(1) materials held for processing or for use in production;

(2) finished or partially finished goods of a manufacturer or processor; and

(3) property held for sale in the ordinary course of trade or business.

The term includes items that qualify as inventory under 50 IAC 4.2-5-1 (as effective December 31, 2008).

SECTION 48. IC 6-1.1-1-11, AS AMENDED BY P.L.214-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

~~(1) nursery stock that has been severed from the ground;~~

~~(2) florists' stock of growing crops which are ready for sale as pot plants on benches;~~

~~(3)~~ **(1)** billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;

~~(4)~~ **(2)** motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5;

~~(5)~~ **(3)** foundations (other than foundations which support a building or structure) on which machinery or equipment is installed; and

~~(6)~~ **(4)** all other tangible property (other than real property) which: ~~is being:~~

~~(A) held for sale in the ordinary course of a trade or business;~~

~~(B) held, used, or consumed in connection with the production of income; or~~

~~(C)~~ **(A) is being** held as an investment; **or**

(B) is depreciable personal property.

(b) Personal property does not include the following:

(1) Commercially planted and growing crops while they are in the ground.

(2) Computer application software. ~~that is not held as~~

(3) Inventory. ~~(as defined in IC 6-1.1-3-11).~~

SECTION 49. IC 6-1.1-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. "Real property" means:

(1) land located within this state;

(2) a building or fixture situated on land located within this state;

(3) an appurtenance to land located within this state;

(4) an estate in land located within this state, or an estate, right, or privilege in mines located on or minerals, including but not limited to oil or gas, located in the land, if the estate, right, or privilege is distinct from the ownership of the surface of the land; and

(5) notwithstanding IC 6-6-6-7, a riverboat:

(A) licensed under IC 4-33; or

(B) operated under an operating agent contract under IC 4-33-6.5;

for which the department of local government finance shall prescribe standards to be used by ~~township assessors.~~ **assessing officials.**

SECTION 50. IC 6-1.1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 7. The following property is not subject to assessment and taxation under this article:

(1) A commercial vessel that is subject to the net tonnage tax imposed under IC 6-6-6.

(2) A motor vehicle or trailer that is subject to the annual license excise tax imposed under IC 6-6-5.

(3) A boat that is subject to the boat excise tax imposed under IC 6-6-11.

(4) Property used by a cemetery (as defined in IC 23-14-33-7) if the cemetery:

(A) does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; and

(B) has had no business transaction during the preceding calendar year.

(5) A commercial vehicle that is subject to the annual excise tax imposed under IC 6-6-5.5.

(6) Inventory.

SECTION 51. IC 6-1.1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in subsection (c), ~~and section 11 of this chapter,~~ personal property which is owned by a person who is a resident of this state shall be assessed at the place where the owner resides on the assessment date of the year for which the assessment is made.

(b) Except as provided in subsection (c), ~~and section 11 of this chapter,~~ personal property which is owned by a person who is not a resident of this state shall be assessed at the place where the owner's principal office within this state is located on the assessment date of the year for which the assessment is made.

(c) Personal property shall be assessed at the place where it is situated on the assessment date of the year for which the assessment is made if the property is:

(1) regularly used or permanently located where it is situated; or

(2) owned by a nonresident who does not have a principal office within this state.

(d) If a personal property return is filed pursuant to subsection (c), the owner of the property shall provide, within forty-five (45) days after the filing deadline, a copy or other written evidence of the filing of the return to the assessor of the township in which the owner resides **or to the county assessor if there is no township assessor for the township.** If such evidence is not filed within forty-five (45) days after the filing deadline, the **township or county** assessor ~~of~~ **for** the ~~township in which~~ **area where** the owner resides shall determine if the owner filed a personal property return in the township **or county** where the property is situated. If such a return was filed, the property shall be assessed where it is situated. If such a return was not filed, the **township or county** assessor ~~of~~ **for** the ~~township~~ **area** where the owner resides shall notify the assessor of the township **or county** where the property is situated, and the property shall be assessed where it is situated. This subsection does not apply to a taxpayer who:

(1) is required to file duplicate personal property returns under section 7(c) of this chapter and under regulations promulgated by the department of local government finance with respect to that section; or

(2) is required by the department of local government finance to file a summary of the taxpayer's business tangible personal property returns.

SECTION 52. IC 6-1.1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) If a question arises as to the proper place to assess personal property, the county assessor shall determine the place if:

(1) two (2) or more townships in the county are served by township assessors and the conflict involves ~~different townships which are located within the county the assessor serves.~~ **two (2) or more of those townships; or**

(2) the conflict does not involve any other county and none of the townships in the county is served by a township assessor.

If the conflict involves different counties, the department of local government finance shall determine the proper place of assessment.

(b) A determination made under this section by ~~a county assessor or~~ the department of local government finance is final.

(c) If taxes are paid to a county which is not entitled to collect them, the department of local government finance may direct the authorities of the county which wrongfully collected the taxes to refund the taxes collected and any penalties charged on the taxes.

SECTION 53. IC 6-1.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Before the assessment date of each year, the county auditor shall deliver to each township assessor **(if any) and the county assessor** the proper assessment books and necessary blanks for the listing and assessment of personal property.

SECTION 54. IC 6-1.1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. Between the assessment date and the filing date of each year, the appropriate township assessor, **or the county assessor if there is no township assessor for the township,** shall furnish each person whose personal property is subject to assessment for that year with a personal property return.

SECTION 55. IC 6-1.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b) and (d), a taxpayer shall, on or before the filing date of each year, file a personal property return with:

(1) the assessor of each township in which the taxpayer's personal property is subject to assessment; **or**

(2) the county assessor if there is no township assessor for a township in which the taxpayer's personal property is subject to assessment.

(b) The township assessor **or county assessor** may grant a taxpayer an extension of not more than thirty (30) days to file the taxpayer's return if:

(1) the taxpayer submits a written application for an extension prior to the filing date; and

(2) the taxpayer is prevented from filing a timely return because of sickness, absence from the county, or any other good and sufficient reason.

(c) If the sum of the assessed values reported by a taxpayer on the business personal property returns which the taxpayer files with the township assessor **or county assessor** for a year exceeds one hundred fifty thousand dollars ($150,000), the taxpayer shall file each of the returns in duplicate.

(d) ~~A taxpayer may file a consolidated return with the county assessor~~ If: ~~the~~

(1) a taxpayer has personal property subject to assessment in more than one (1) township in a county; and

(2) the total assessed value of the personal property in the county is less than one million five hundred thousand dollars ($1,500,000); ~~A~~ **the** taxpayer filing a ~~consolidated~~ return shall **file a single return with the county assessor and** attach a schedule listing, by township, all the taxpayer's personal property and the property's assessed value. ~~A taxpayer filing a consolidated return is not required to file a personal property return with the assessor of each township. A~~ **The** taxpayer ~~filing a consolidated return~~ shall provide ~~the following: (1)~~ the county assessor with the information necessary for the county assessor to allocate the assessed value of the taxpayer's personal property among the townships listed on the return, including the street address, the township, and the location of the property.

~~(2) A copy of the consolidated return, with attachments, for each township listed on the return.~~

(e) The county assessor shall provide to each affected township assessor **(if any)** in the county all information filed by a taxpayer under subsection (d) that affects the township. ~~The county assessor shall provide the information before:~~

~~(1) May 25 of each year, for a return filed on or before the filing date for the return; or~~

~~(2) June 30 of each year, for a return filed after the filing date for the return.~~

~~(f) The township assessor shall send all required notifications to the taxpayer.~~

~~(g)~~ **(f)** The county assessor may refuse to accept a ~~consolidated~~ personal property tax return that does not ~~have attached to it a schedule listing, by township, all the personal property of the taxpayer and the assessed value of the property as required under~~ **comply with** subsection (d). For purposes of IC 6-1.1-37-7, a ~~consolidated~~ return **to which subsection (d) applies** is filed on the date it is filed with the county assessor with the schedule ~~of personal property and assessed value~~ **required by subsection (d)** attached.

SECTION 56. IC 6-1.1-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The township assessor, **or the county assessor if there is no township assessor for the township,** shall:

(1) examine and verify; or

(2) allow a contractor under IC 6-1.1-36-12 to examine and verify;

the accuracy of each personal property return filed with the township **or county** assessor by a taxpayer. If appropriate, the assessor or contractor under IC 6-1.1-36-12 shall compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.

SECTION 57. IC 6-1.1-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) In connection with the activities required by section 14 of this chapter, or if a person owning, holding, possessing, or controlling any personal property fails to file a personal property return with the township **or county** assessor as required by this chapter, the township **or county** assessor may examine:

(1) the personal property of the person;

(2) the books and records of the person; and

(3) under oath, the person or any other person whom the assessor believes has knowledge of the amount, identity, or value of the personal property reported or not reported by the person on a return.

(b) After such an examination, the assessor shall assess the personal property to the person owning, holding, possessing, or controlling that property.

(c) As an alternative to such an examination, the township **or county** assessor may estimate the value of the personal property of the taxpayer and shall assess the person owning, holding, possessing, or controlling the property in an amount based upon the estimate. Upon receiving a notification of estimated value from the township **or county** assessor, the taxpayer may elect to file a personal property return, subject to the penalties imposed by IC 6-1.1-37-7.

SECTION 58. IC 6-1.1-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. If, from the evidence before ~~him,~~ a township **or county assessor, the** assessor determines that a person has temporarily converted any part of ~~his~~ **the person's** personal property into property which is not taxable under this article to avoid the payment of taxes on the converted property, the township **or county** assessor shall assess the converted property to the taxpayer.

SECTION 59. IC 6-1.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) On or before June 1 of each year, each township assessor **(if any)** of a county shall deliver to the county assessor a list which states by taxing district the total of the personal property assessments as shown on the personal property returns filed with the **township** assessor on or before the filing date of that year

and in a county with a township assessor under IC 36-6-5-1 in every township the township assessor shall deliver the lists to the county auditor as prescribed in subsection (b).

(b) On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district.

(c) The department of local government finance shall prescribe the forms required by this section.

SECTION 60. IC 6-1.1-3-18, AS AMENDED BY P.L.219-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) Each township assessor of a county **(if any)** shall periodically report to the county assessor and the county auditor with respect to the returns and properties of taxpayers which the township assessor has examined. The township assessor shall submit these reports in the form and on the dates prescribed by the department of local government finance.

(b) ~~Each year, on or before the time prescribed by the department of local government finance, each township assessor of a county shall deliver to the county assessor a copy of each business personal property return which the taxpayer is required to file in duplicate under section 7(c) of this chapter and a copy of any supporting data supplied by the taxpayer with the return.~~ Each year, the county assessor:

(1) shall review and may audit ~~those~~ **the business personal property** returns **that the taxpayer is required to file in duplicate under section 7(c) of this chapter;** and

(2) shall determine the returns in which the assessment appears to be improper.

SECTION 61. IC 6-1.1-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** While a county property tax assessment board of appeals is in session, each township assessor of the county **(if any)** shall make the following information available to the county assessor and the board:

(1) Personal property returns.

(2) Documents related to the returns. ~~and~~

(3) Any information in the possession of the **township** assessor ~~which~~ **that** is related to the identity of the owners or possessors of property or the values of property.

(b) Upon written request of the board, the township assessor shall furnish ~~this~~ information **referred to in subsection (a)** to any member of the board either directly or through employees of the board.

SECTION 62. IC 6-1.1-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. If an assessing official ~~or board~~ changes a valuation made by a person on ~~his~~ **the person's** personal property return or adds personal property and its value to a return, the assessing official ~~or board~~ shall, by mail, immediately give the person notice of the action taken. However, if a taxpayer lists property on ~~his~~ **the taxpayer's** return but does not place a value on the property, a notice of the action of an assessing official ~~or board~~ in placing a value on the property is not required.

SECTION 63. IC 6-1.1-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. ~~(a)~~ Subject to the limitations ~~contained~~ in IC 6-1.1-35-9, assessment returns, lists, and any other documents and information related to the determination of personal property assessments shall be preserved as public records and open to public inspection. The township assessor, **or the county assessor if there is no township assessor for the township,** shall preserve and maintain these records. ~~if quarters for his office are provided in the county court house, or a branch thereof. If quarters are not provided for the township assessor, he shall, as soon as he completes his audit of a return, deliver the return and all related documents and information to the county assessor, and the county assessor shall maintain and preserve the items. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.~~

~~(b) Each county shall furnish an office for a township assessor in the county courthouse, or a branch thereof, if the township he serves has a population of thirty-five thousand (35,000) or more. A county may furnish an office in the county courthouse, or branch thereof, for any township assessor.~~

SECTION 64. IC 6-1.1-4-4, AS AMENDED BY P.L.228-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2000, and be the basis for taxes payable in 2003.

(b) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2009, and each fifth year thereafter. Each reassessment under this subsection:

(1) shall be completed on or before March 1 of the year that succeeds by two (2) years the year in which the general reassessment begins; and

(2) shall be the basis for taxes payable in the year following the year

in which the general assessment is to be completed.

(c) In order to ensure that assessing officials ~~and members of each county property tax assessment board of appeals~~ are prepared for a general reassessment of real property, the department of local government finance shall give adequate advance notice of the general reassessment to the ~~county and township taxing~~ **assessing** officials of each county.

SECTION 65. IC 6-1.1-4-4.7, AS ADDED BY P.L.228-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.7. ~~(a) For purposes of this section, "assessor" means:~~

~~(1) a township assessor; or~~

~~(2) a county assessor who assumes the responsibility for verifying sales under 50 IAC 21-3-2(b).~~

~~(b)~~ The department of local government finance shall provide training to **township assessors, county** assessors, and county auditors with respect to the verification of sales disclosure forms under 50 IAC 21-3-2.

SECTION 66. IC 6-1.1-4-12.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.4. (a) For purposes of this section, the term "oil or gas interest" includes but is not limited to:

(1) royalties;

(2) overriding royalties;

(3) mineral rights; or

(4) working interest;

in any oil or gas located on or beneath the surface of land which lies within this state.

(b) Oil or gas interest is subject to assessment and taxation as real property. Notwithstanding ~~the provisions of IC 1971, 6-1.1-4-4,~~ **section 4 of this chapter,** each oil or gas interest shall be assessed annually by the assessor of the township in which the oil or gas is located, **or the county assessor if there is no township assessor for the township.** The township **or county** assessor shall assess the oil or gas interest to the person who owns or operates the interest.

(c) A piece of equipment is an appurtenance to land if it is incident to and necessary for the production of oil and gas from the land covered by the oil or gas interest. This equipment includes but is not limited to wells, pumping units, lines, treaters, separators, tanks, and secondary recovery facilities. These appurtenances are subject to ~~assesment~~ **assessment** as real property. Notwithstanding ~~the provisions of IC 1971, 6-1.1-4-4,~~ **section 4 of this chapter,** each of these appurtenances shall be assessed annually by

the assessor of the township in which the appurtenance is located, **or the county assessor if there is no township assessor for the township.** The township **or county** assessor shall assess the appurtenance to the person who owns or operates the working interest in the oil or gas interest.

SECTION 67. IC 6-1.1-4-12.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.6. (a) For purposes of this section, the term "secondary recovery method" includes but is not limited to the stimulation of oil production by means of the injection of water, steam, hydrocarbons, or chemicals, or by means of in situ combustion.

(b) The total assessed value of all interests in the oil located on or beneath the surface of a particular tract of land equals the product of:

(1) the average daily production of the oil; multiplied by

(2) three hundred sixty-five (365); and multiplied by

(3) the posted price of oil on the assessment date.

However, if the oil is being extracted by use of a secondary recovery method, the total assessed value of all interests in the oil equals one-half (1/2) the assessed value computed under the formula prescribed in this subsection. The appropriate township assessor **(if any), or the county assessor if there is no township assessor for the township,** shall, in the manner prescribed by the department of local government finance, apportion the total assessed value of all interests in the oil among the owners of those interests.

(c) The appropriate township assessor, **or the county assessor if there is no township assessor for the township,** shall, in the manner prescribed by the department of local government finance, determine and apportion the total assessed value of all interests in the gas located beneath the surface of a particular tract of land.

(d) The department of local government finance shall prescribe a schedule for township **and county** assessors to use in assessing the appurtenances described in section 12.4(c) of this chapter.

SECTION 68. IC 6-1.1-4-13.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13.6. (a) The township assessor, **or the county assessor if there is no township assessor for the township,** shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the township **or county** using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment becomes effective, the assessor

determining the values of land shall submit the values to the county property tax assessment board of appeals. Not later than December 1 of the year preceding the year in which a general reassessment becomes effective, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 and before December 1 of the year preceding the year in which the general reassessment under ~~IC 6-1.1-4-4~~ **section 4 of this chapter** becomes effective.

(b) The county property tax assessment board of appeals shall review the values submitted under subsection (a) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the county assessor ~~or township assessor~~ fails to submit land values under subsection (a) to the county property tax assessment board of appeals before November 1 of the year before the date the general reassessment under ~~IC 6-1.1-4-4~~ **section 4 of this chapter** becomes effective, the county property tax assessment board of appeals shall determine the values. If the county property tax assessment board of appeals fails to determine the values before the general reassessment becomes effective, the department of local government finance shall determine the values.

(c) The county assessor shall notify all township assessors in the county **(if any)** of the values as modified by the county property tax assessment board of appeals. ~~Township assessors~~ **Assessing officials** shall use the values determined under this section.

SECTION 69. IC 6-1.1-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) If real property is subject to assessment or reassessment under this chapter, the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township,** shall either appraise the property ~~himself~~ or have it appraised.

(b) In order to determine the assessed value of buildings and other improvements, the township **or county** assessor or ~~his~~ **the assessor's** authorized representative may, after first making known ~~his~~ **the assessor's or representative's** intention to the owner or occupant, enter and fully

examine all buildings and structures which are located within the township ~~he serves~~ **or county** and which are subject to assessment.

SECTION 70. IC 6-1.1-4-16, AS AMENDED BY P.L.228-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) For purposes of making a general reassessment of real property or annual adjustments under section 4.5 of this chapter, ~~any~~ **a** township assessor **(if any)** and ~~any~~ **a** county assessor may employ:

(1) deputies;

(2) employees; and

(3) technical advisors who are:

(A) qualified to determine real property values;

(B) professional appraisers certified under 50 IAC 15; and

(C) employed either on a full-time or a part-time basis, subject to sections 18.5 and 19.5 of this chapter.

(b) The county council of each county shall appropriate the funds necessary for the employment of deputies, employees, or technical advisors employed under subsection (a) of this section.

SECTION 71. IC 6-1.1-4-17, AS AMENDED BY P.L.228-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Subject to the approval of the department of local government finance and the requirements of section 18.5 of this chapter, a

~~(1) township assessor; or~~

~~(2) group consisting of the~~ county assessor ~~and the township assessors in a county;~~

may employ professional appraisers as technical advisors **for assessments in all townships in the county. The department of local government finance may approve employment under this subsection only if the department is a party to the employment contract.**

(b) A decision by ~~one (1) or more assessors referred to in subdivisions (1) and (2)~~ **a county assessor** to not employ a professional appraiser as a technical advisor in a general reassessment is subject to approval by the department of local government finance.

~~(b) After notice to the county assessor and all township assessors in the county, a majority of the assessors authorized to vote under this subsection may vote to:~~

~~(1) employ a professional appraiser to act as a technical advisor in the county during a general reassessment period;~~

~~(2) appoint an assessor or a group of assessors to:~~

~~(A) enter into and administer the contract with a professional appraiser employed under this section; and~~

~~(B) oversee the work of a professional appraiser employed under this section.~~

~~Each township assessor and the county assessor has one (1) vote. A decision by a majority of the persons authorized to vote is binding on the county assessor and all township assessors in the county. Subject to the limitations in section 18.5 of this chapter, the assessor or assessors appointed under subdivision (2) may contract with a professional appraiser employed under this section to supply technical advice during a general reassessment period for all townships in the county. A proportionate part of the appropriation to all townships for assessing purposes shall be used to pay for the technical advice.~~

(c) As used in this chapter, "professional appraiser" means an individual or firm that is certified under IC 6-1.1-31.7.

SECTION 72. IC 6-1.1-4-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18.5. (a) A ~~township assessor, a group of township assessors, or the~~ county assessor may not use the services of a professional appraiser for assessment or reassessment purposes without a written contract. The contract used must be either a standard contract developed by the ~~state board of tax commissioners (before the board was abolished) or the~~ department of local government finance or a contract ~~which~~ **that** has been specifically approved by the ~~board or the~~ department. The department shall ensure that the contract:

(1) includes all of the provisions required under section 19.5(b) of this chapter; and

(2) adequately provides for the creation and transmission of real property assessment data in the form required by the legislative services agency and the division of data analysis of the department.

(b) No contract shall be made with any professional appraiser to act as technical advisor in the assessment of property, before the giving of notice and the receiving of bids from anyone desiring to furnish this service. Notice of the time and place for receiving bids for the contract shall be given by publication by one (1) insertion in two (2) newspapers of general circulation published in the county and representing each of the two (2) leading political parties in the county. ~~or~~ If only one (1) newspaper is there published, notice in that one (1) newspaper is sufficient to comply with the requirements of this subsection. The contract shall be awarded to the lowest and best bidder who meets all requirements under law for entering a contract to serve as technical advisor in the assessment of property.

However, any and all bids may be rejected, and new bids may be asked.

(c) The county council of each county shall appropriate the funds needed to meet the obligations created by a professional appraisal services contract which is entered into under this chapter.

SECTION 73. IC 6-1.1-4-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19.5. (a) The department of local government finance shall develop a standard contract or standard provisions for contracts to be used in securing professional appraising services.

(b) The standard contract or contract provisions must contain:

(1) a fixed date by which the professional appraiser or appraisal firm shall have completed all responsibilities under the contract;

(2) a penalty clause under which the amount to be paid for appraisal services is decreased for failure to complete specified services within the specified time;

(3) a provision requiring the appraiser, or appraisal firm, to make periodic reports to the ~~township assessors involved,~~ **county assessor;**

(4) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (3) of this subsection are to be made;

(5) a precise stipulation of what service or services are to be provided and what class or classes of property are to be appraised;

(6) a provision stipulating that the contractor will generate complete parcel characteristics and parcel assessment data in a manner and format acceptable to the legislative services agency and the department of local government finance; ~~and~~

(7) a provision stipulating that the legislative services agency and the department of local government finance have unrestricted access to the contractor's work product under the contract; **and**

(8) a provision stating that the department of local government finance is a party to the contract.

The department of local government finance may devise other necessary provisions for the contracts in order to give effect to ~~the provisions of~~ this chapter.

(c) In order to comply with the duties assigned to it by this section, the department of local government finance may develop:

(1) one (1) or more model contracts;

(2) one (1) contract with alternate provisions; or

(3) any combination of subdivisions (1) and (2).

The department may approve special contract language in order to meet

any unusual situations.

SECTION 74. IC 6-1.1-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. The department of local government finance may establish a period with respect to each general reassessment that is the only time during which a ~~township or~~ county assessor may enter into a contract with a professional appraiser. The period set by the department of local government finance may not begin before January 1 of the year the general reassessment begins. If no period is established by the department of local government finance, a ~~township or~~ county assessor may enter into such a contract only on or after January 1 and before April 16 of the year in which the general reassessment is to commence.

SECTION 75. IC 6-1.1-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) If, during a period of general reassessment, a ~~township~~ **county** assessor **personally** makes the real property appraisals, ~~himself,~~ the appraisals of the parcels subject to taxation must be completed as follows:

(1) The appraisal of one-fourth (1/4) of the parcels shall be completed before December 1 of the year in which the general reassessment begins.

(2) The appraisal of one-half (1/2) of the parcels shall be completed before May 1 of the year following the year in which the general reassessment begins.

(3) The appraisal of three-fourths (3/4) of the parcels shall be completed before October 1 of the year following the year in which the general reassessment begins.

(4) The appraisal of all the parcels shall be completed before March 1 of the second year following the year in which the general reassessment begins.

(b) If a ~~township~~ **county** assessor employs a professional appraiser or a professional appraisal firm to make real property appraisals during a period of general reassessment, the professional appraiser or appraisal firm must file appraisal reports with the ~~township~~ **county** assessor as follows:

(1) The appraisals for one-fourth (1/4) of the parcels shall be reported before December 1 of the year in which the general reassessment begins.

(2) The appraisals for one-half (1/2) of the parcels shall be reported before May 1 of the year following the year in which the general reassessment begins.

(3) The appraisals for three-fourths (3/4) of the parcels shall be

reported before October 1 of the year following the year in which the general reassessment begins.

(4) The appraisals for all the parcels shall be reported before March 1 of the second year following the year in which the general reassessment begins.

However, the reporting requirements prescribed in this subsection do not apply if the contract under which the professional appraiser, or appraisal firm, is employed prescribes different reporting procedures.

SECTION 76. IC 6-1.1-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) If any assessing official ~~or any county property tax assessment board of appeals~~ assesses or reassesses any real property under ~~the provisions of~~ this article, the official ~~or county property tax assessment board of appeals~~ shall give notice to the taxpayer and the county assessor, by mail, of the amount of the assessment or reassessment.

(b) During a period of general reassessment, each township **or county** assessor shall mail the notice required by this section within ninety (90) days after ~~he:~~ **the assessor:**

(1) completes ~~his~~ **the** appraisal of a parcel; or

(2) receives a report for a parcel from a professional appraiser or professional appraisal firm.

SECTION 77. IC 6-1.1-4-25, AS AMENDED BY P.L.177-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) Each township assessor **and each county assessor** shall keep the assessor's reassessment data and records current by securing the necessary field data and by making changes in the assessed value of real property as changes occur in the use of the real property. The township **or county** assessor's records shall at all times show the assessed value of real property in accordance with ~~the provisions of~~ this chapter. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

(b) The township assessor **(if any)** in a county having a consolidated city, **the county assessor if there are no township assessors in a county having a consolidated city,** or the county assessor in every other county, shall:

(1) maintain an electronic data file of:

(A) the parcel characteristics and parcel assessments of all parcels; and

(B) the personal property return characteristics and assessments by return;

for each township in the county as of each assessment date;

(2) maintain the electronic file in a form that formats the information in the file with the standard data, field, and record coding required and approved by:

(A) the legislative services agency; and

(B) the department of local government finance;

(3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:

(A) the legislative services agency; and

(B) the department of local government finance;

in a manner that meets the data export and transmission requirements in a standard format, as prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and

(4) resubmit the data in the form and manner required under this subsection, upon request of the legislative services agency or the department of local government finance, if data previously submitted under this subsection does not comply with the requirements of this subsection, as determined by the legislative services agency or the department of local government finance.

An electronic data file maintained for a particular assessment date may not be overwritten with data for a subsequent assessment date until a copy of an electronic data file that preserves the data for the particular assessment date is archived in the manner prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency.

SECTION 78. IC 6-1.1-4-27.5, AS AMENDED BY P.L.219-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27.5. (a) The auditor of each county shall establish a property reassessment fund. The county treasurer shall deposit all collections resulting from the property taxes that the county levies for the county's property reassessment fund.

(b) With respect to the general reassessment of real property that is to commence on July 1, 2009, the county council of each county shall, for property taxes due in 2006, 2007, 2008, and 2009, levy in each year against all the taxable property in the county an amount equal to one-fourth (1/4) of the remainder of:

(1) the estimated costs referred to in section 28.5(a) of this chapter; minus

(2) the amount levied under this section by the county council for

property taxes due in 2004 and 2005.

(c) With respect to a general reassessment of real property that is to commence on July 1, 2014, and each fifth year thereafter, the county council of each county shall, for property taxes due in the year that the general reassessment is to commence and the four (4) years preceding that year, levy against all the taxable property in the county an amount equal to one-fifth (1/5) of the estimated costs of the general reassessment under section 28.5 of this chapter.

(d) The department of local government finance shall give to each county council notice, before January 1 in a year, of the tax levies required by this section for that year.

(e) The department of local government finance may raise or lower the property tax levy under this section for a year if the department determines it is appropriate because the estimated cost of:

(1) a general reassessment; or

(2) making annual adjustments under section 4.5 of this chapter;

has changed.

(f) The county assessor ~~or township assessor~~ may petition the county fiscal body to increase the levy under subsection (b) or (c) to pay for the costs of:

(1) a general reassessment;

(2) verification under 50 IAC 21-3-2 of sales disclosure forms forwarded to

~~(A)~~ the county assessor ~~or~~

~~(B) township assessors;~~

under IC 6-1.1-5.5-3; or

(3) processing annual adjustments under section 4.5 of this chapter.

The assessor must document the needs and reasons for the increased funding.

(g) If the county fiscal body denies a petition under subsection (f), the **county** assessor may appeal to the department of local government finance. The department of local government finance shall:

(1) hear the appeal; and

(2) determine whether the additional levy is necessary.

SECTION 79. IC 6-1.1-4-28.5, AS AMENDED BY P.L.219-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

(1) the general reassessment of real property, including the

computerization of assessment records;

(2) payments to ~~county assessors, members of property tax assessment boards of appeals, or~~ assessing officials **and hearing officers for county property tax assessment boards of appeals** under IC 6-1.1-35.2;

(3) the development or updating of detailed soil survey data by the United States Department of Agriculture or its successor agency;

(4) the updating of plat books;

(5) payments for the salary of permanent staff or for the contractual services of temporary staff who are necessary to assist ~~county assessors, members of a county property tax assessment board of appeals, and~~ assessing officials;

(6) making annual adjustments under section 4.5 of this chapter; and

(7) the verification under 50 IAC 21-3-2 of sales disclosure forms forwarded to:

(A) the county assessor; or

(B) township assessors **(if any);**

under IC 6-1.1-5.5-3.

Money in a property tax reassessment fund may not be transferred or reassigned to any other fund and may not be used for any purposes other than those set forth in this section.

(b) All counties shall use modern, detailed soil maps in the general reassessment of agricultural land.

(c) The county treasurer of each county shall, in accordance with IC 5-13-9, invest any money accumulated in the property reassessment fund. Any interest received from investment of the money shall be paid into the property reassessment fund.

(d) An appropriation under this section must be approved by the fiscal body of the county after the review and recommendation of the county assessor. However, in a county with ~~an elected~~ **a** township assessor in every township, the county assessor does not review an appropriation under this section, and only the fiscal body must approve an appropriation under this section.

SECTION 80. IC 6-1.1-4-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. (a) The expenses of a reassessment, except those incurred by the department of local government finance in performing its normal functions, shall be paid by the county in which the reassessed property is situated. These expenses, except for the expenses of a general reassessment, shall be paid from county funds. The county auditor shall issue warrants for the payment of reassessment expenses. No

prior appropriations are required in order for the auditor to issue warrants.

(b) An order of the department of local government finance directing the reassessment of property shall contain an estimate of the cost of making the reassessment. The ~~local~~ assessing officials **in** the county, ~~assessor,~~ the county property tax assessment board of appeals, and the county auditor may not exceed the amount so estimated by the department of local government finance.

SECTION 81. IC 6-1.1-4-31, AS AMENDED BY P.L.228-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. (a) The department of local government finance shall periodically check the conduct of:

(1) a general reassessment of property;

(2) work required to be performed by local officials under 50 IAC 21; and

(3) other property assessment activities in the county, as determined by the department.

The department of local government finance may inform township assessors **(if any),** county assessors, and the presidents of county councils in writing if its check reveals that the general reassessment or other property assessment activities are not being properly conducted, work required to be performed by local officials under 50 IAC 21 is not being properly conducted, or property assessments are not being properly made.

(b) The failure of the department of local government finance to inform local officials under subsection (a) shall not be construed as an indication by the department that:

(1) the general reassessment or other property assessment activities are being properly conducted;

(2) work required to be performed by local officials under 50 IAC 21 is being properly conducted; or

(3) property assessments are being properly made.

(c) If the department of local government finance:

(1) determines under subsection (a) that a general reassessment or other assessment activities for a general reassessment year or any other year are not being properly conducted; and

(2) informs:

(A) the township assessor **(if any)** of each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may order a state conducted assessment or reassessment

under section 31.5 of this chapter to begin not less than sixty (60) days after the date of the notice under subdivision (2). If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the state conducted assessment or reassessment that the general reassessment or other assessment activities for the general reassessment are being properly conducted, the department may rescind the order.

(d) If the department of local government finance:

(1) determines under subsection (a) that work required to be performed by local officials under 50 IAC 21 is not being properly conducted; and

(2) informs:

(A) the township assessor of each affected township **(if any);**

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may conduct the work or contract to have the work conducted to begin not less than sixty (60) days after the date of the notice under subdivision (2). If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the work or having the work conducted that work required to be performed by local officials under 50 IAC 21 is being properly conducted, the department may rescind the order.

(e) If the department of local government finance contracts to have work conducted under subsection (d), the department shall forward the bill for the services to the county and the county shall pay the bill under the same procedures that apply to county payments of bills for assessment or reassessment services under section 31.5 of this chapter.

(f) A county council president who is informed by the department of local government finance under subsection (a) shall provide the information to the board of county commissioners. A board of county commissioners that receives information under this subsection may adopt an ordinance to do either or both of the following:

(1) Determine that:

(A) the information indicates that the county assessor has failed to perform adequately the duties of county assessor; and

(B) by that failure the county assessor forfeits the office of county assessor and is subject to removal from office by an information filed under IC 34-17-2-1(b).

(2) Determine that:

(A) the information indicates that one (1) or more township assessors in the county have failed to perform adequately the duties of township assessor; and

(B) by that failure the township assessor or township assessors forfeit the office of township assessor and are subject to removal from office by an information filed under IC 34-17-2-1(b).

(g) A city-county council that is informed by the department of local government finance under subsection (a) may adopt an ordinance making the determination or determinations referred to in subsection (f).

SECTION 82. IC 6-1.1-4-31.5, AS ADDED BY P.L.228-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 31.5. ~~(a) As used in this section, "assessment official" means any of the following:~~

~~(1) A county assessor.~~

~~(2) A township assessor.~~

~~(3) A township trustee-assessor.~~

~~(b)~~ **(a)** As used in this section, "department" refers to the department of local government finance.

~~(c)~~ **(b)** If the department makes a determination and informs local officials under section 31(c) of this chapter, the department may order a state conducted assessment or reassessment in the county subject to the time limitation in that subsection.

~~(d)~~ **(c)** If the department orders a state conducted assessment or reassessment in a county, the department shall assume the duties of the ~~county's assessment officials.~~ **county assessor.** Notwithstanding sections 15 and 17 of this chapter, ~~an assessment official in~~ a county **assessor** subject to an order issued under this section may not assess property or have property assessed for the assessment or general reassessment. Until the state conducted assessment or reassessment is completed under this section, the assessment or reassessment duties of ~~an assessment official in~~ the county **assessor** are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

~~(e)~~ **(d)** Before assuming the duties of a ~~county's assessment officials,~~ **county assessor,** the department shall transmit a copy of the department's order requiring a state conducted assessment or reassessment to the ~~county's assessment officials,~~ **county assessor,** the county fiscal body, the

county auditor, and the county treasurer. Notice of the department's actions must be published one (1) time in a newspaper of general circulation published in the county. The department is not required to conduct a public hearing before taking action under this section.

~~(f) Township and county officials in~~ **(e)** A county **assessor** subject to an order issued under this section shall, at the request of the department or the department's contractor, make available and provide access to all:

(1) data;
(2) records;
(3) maps;
(4) parcel record cards;
(5) forms;
(6) computer software systems;
(7) computer hardware systems; and
(8) other information;

related to the assessment or reassessment of real property in the county. The information described in this subsection must be provided at no cost to the department or the contractor of the department. A failure to provide information requested under this subsection constitutes a failure to perform a duty related to an assessment or a general reassessment and is subject to IC 6-1.1-37-2.

~~(g)~~ **(f)** The department may enter into a contract with a professional appraising firm to conduct an assessment or reassessment under this section. If a county ~~or a township located in the county~~ entered into a contract with a professional appraising firm to conduct the county's assessment or reassessment before the department orders a state conducted assessment or reassessment in the county under this section, the contract:

(1) is as valid as if it had been entered into by the department; and
(2) shall be treated as the contract of the department.

~~(h)~~ **(g)** After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection ~~(g),~~ **(f),** the department shall give notice to the taxpayer and the county assessor, by mail, of the amount of the assessment or reassessment. The notice of assessment or reassessment:

(1) is subject to appeal by the taxpayer under section 31.7 of this chapter; and
(2) must include a statement of the taxpayer's rights under section 31.7 of this chapter.

~~(i)~~ **(h)** The department shall forward a bill for services provided under a contract described in subsection ~~(g)~~ **(f)** to the auditor of the county in

which the state conducted reassessment occurs. The county shall pay the bill under the procedures prescribed by subsection ~~(j).~~ **(i).**

~~(j)~~ **(i)** A county subject to an order issued under this section shall pay the cost of a contract described in subsection ~~(g),~~ **(f),** without appropriation, from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under the contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

(1) submits to the department a fully itemized, certified bill in the form required by IC 5-11-10-1 for the costs of the work performed under the contract;

(2) obtains from the department:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services have been received and comply with the contract; and

(3) files with the county auditor:

(A) a duplicate copy of the bill submitted to the department;

(B) proof of the department's approval of the form and amount of the bill; and

(C) the department's certification that the billed goods and services have been received and comply with the contract.

The department's approval and certification of a bill under subdivision (2) shall be treated as conclusively resolving the merits of a contractor's claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit ~~publish the claim as required by IC 36-2-6-3,~~ and submit the claim to the county executive. The county executive shall allow the claim, in full, as approved by the department, without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after the ~~completion of the publication requirements under IC 36-2-6-3.~~ **date the claim is certified by the county fiscal officer if the procedures in IC 5-11-10-2 are used to approve the claim or the date the claim is placed on the claim docket under IC 36-2-6-4 if the procedures in IC 36-2-6-4 are used to approve the claim.** Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment

of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

~~(k)~~ **(j)** Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

(1) The commissioner of the Indiana department of administration.

(2) The director of the budget agency.

(3) The attorney general.

~~(l)~~ **(k)** If money in the county's property reassessment fund is insufficient to pay for an assessment or reassessment conducted under this section, the department may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the assessment or reassessment.

~~(m)~~ **(l)** The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The department or the contractor of the department shall notify the county's ~~assessment~~ **assessing** officials of the land values determined under this subsection.

~~(n)~~ **(m)** A contractor of the department may notify the department if:

(1) a county auditor fails to:

(A) certify the contractor's bill;

(B) publish the contractor's claim;

(C) submit the contractor's claim to the county executive; or

(D) issue a warrant or check for payment of the contractor's bill;

as required by subsection ~~(j)~~ **(i)** at the county auditor's first legal opportunity to do so;

(2) a county executive fails to allow the contractor's claim as legally required by subsection ~~(j)~~ **(i)** at the county executive's first legal

opportunity to do so; or

(3) a person or an entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts progress under this section for payment of the contractor's bill.

~~(o)~~ **(n)** The department, upon receiving notice under subsection ~~(n)~~ **(m)** from a contractor of the department, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection ~~(n)(1)~~ **(m)(1)** or ~~(n)(2);~~ **(m)(2);** or

(B) a person or an entity acted or failed to act as described in subsection ~~(n)(3);~~ **(m)(3);** and

(2) provide to the treasurer of state the department's approval under subsection ~~(j)(2)(A)~~ **(i)(2)(A)** of the contractor's bill with respect to which the contractor gave notice under subsection ~~(n).~~ **(m).**

~~(p)~~ **(o)** Upon receipt of the department's approval of a contractor's bill under subsection ~~(o),~~ **(n),** the treasurer of state shall pay the contractor the amount of the bill approved by the department from money in the possession of the state that would otherwise be available for distribution to the county, including distributions ~~from the property tax replacement fund or distribution~~ of admissions taxes or wagering taxes.

~~(q)~~ **(p)** The treasurer of state shall withhold from the money that would be distributed under IC 4-33-12-6, IC 4-33-13-5, ~~IC 6-1.1-21-4(b),~~ or any other law to a county described in a notice provided under subsection ~~(n)~~ **(m)** the amount of a payment made by the treasurer of state to the contractor of the department under subsection ~~(p).~~ **(o).** Money shall be withheld ~~first~~ from ~~the money payable to the county under IC 6-1.1-21-4(b) and then from all other sources~~ **any source** payable to the county.

~~(r)~~ **(q)** Compliance with subsections ~~(n)~~ **(m)** through ~~(q)~~ **(p)** constitutes compliance with IC 5-11-10.

~~(s)~~ **(r)** IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections ~~(n)~~ **(m)** through ~~(q).~~ **(p).** This subsection and subsections ~~(n)~~ **(m)** through ~~(q)~~ **(p)** must be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county subject to this section are paid. Nothing in this section shall be construed to create a debt of the state.

~~(t)~~ **(s)** The provisions of this section are severable as provided in

IC 1-1-1-8(b).

SECTION 83. IC 6-1.1-4-31.6, AS ADDED BY P.L.228-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31.6. (a) Subject to the other requirements of this section, the department of local government finance may:

(1) negotiate an addendum to a contract referred to in ~~section 31.5(g)~~ **section 31.5(f)** of this chapter that is treated as a contract of the department; or

(2) include provisions in a contract entered into by the department under ~~section 31.5(g)~~ **section 31.5(f)** of this chapter;

to require the contractor of the department to represent the department in appeals initiated under section 31.7 of this chapter and to afford to taxpayers an opportunity to attend an informal hearing.

(b) The purpose of the informal hearing referred to in subsection (a) is to:

(1) discuss the specifics of the taxpayer's assessment or reassessment;

(2) review the taxpayer's property record card;

(3) explain to the taxpayer how the assessment or reassessment was determined;

(4) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or reassessment;

(5) note and consider objections of the taxpayer;

(6) consider all errors alleged by the taxpayer; and

(7) otherwise educate the taxpayer about:

(A) the taxpayer's assessment or reassessment;

(B) the assessment or reassessment process; and

(C) the assessment or reassessment appeal process under section 31.7 of this chapter.

(c) Following an informal hearing referred to in subsection (b), the contractor shall:

(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and

(2) if recommending a change under subdivision (1), provide to the department a statement of:

(A) how the changed assessment or reassessment was determined; and

(B) the amount of the changed assessment or reassessment.

(d) To preserve the right to appeal under section 31.7 of this chapter,

a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an informal hearing referred to in subsection (b) not later than forty-five (45) days after the department of local government finance gives notice under ~~section 31.5(h)~~ **section 31.5(g)** of this chapter to taxpayers of the amount of the reassessment.

(e) The informal hearings referred to in subsection (b) must be conducted:

(1) in the county where the property is located; and

(2) in a manner determined by the department of local government finance.

(f) The department of local government finance shall:

(1) consider the recommendation of the contractor under subsection (c); and

(2) if the department accepts a recommendation that a change in the assessment or reassessment is warranted, accept or modify the recommended amount of the changed assessment or reassessment.

(g) The department of local government finance shall send a notice of the result of each informal hearing to:

(1) the taxpayer;

(2) the county auditor;

(3) the county assessor; and

(4) the township assessor **(if any)** of the township in which the property is located.

(h) A notice under subsection (g) must:

(1) state whether the assessment or reassessment was changed as a result of the informal hearing; and

(2) if the assessment or reassessment was changed as a result of the informal hearing:

(A) indicate the amount of the changed assessment or reassessment; and

(B) provide information on the taxpayer's right to appeal under section 31.7 of this chapter.

(i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the assessment or reassessment under ~~section 31.5(h)~~ **section 31.5(g)** of this chapter:

(1) the department may not change the amount of the assessment or reassessment under the informal hearing process described in this section; and

(2) the taxpayer may appeal the assessment or reassessment under section 31.7 of this chapter.

(j) The department of local government finance may adopt rules to establish procedures for informal hearings under this section.

(k) Payment for an addendum to a contract under subsection (a)(1) is made in the same manner as payment for the contract under ~~section 31.5(i)~~ **section 31.5(h)** of this chapter.

SECTION 84. IC 6-1.1-4-31.7, AS AMENDED BY P.L.219-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31.7. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).

(b) The notice of assessment or reassessment under ~~section 31.5(h)~~ **section 31.5(g)** of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).

(c) In order to appeal under subsection (b), the taxpayer must:

(1) participate in the informal hearing process under section 31.6 of this chapter;

(2) except as provided in section 31.6(i) of this chapter, receive a notice under section 31.6(g) of this chapter; and

(3) file a petition for review with the appropriate county assessor not later than thirty (30) days after:

(A) the date of the notice to the taxpayer under section 31.6(g) of this chapter; or

(B) the date after which the department may not change the amount of the assessment or reassessment under the informal hearing process described in section 31.6 of this chapter.

(d) The Indiana board may develop a form for petitions under subsection (c) that outlines:

(1) the appeal process;

(2) the burden of proof; and

(3) evidence necessary to warrant a change to an assessment or reassessment.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):

(1) Independent, licensed appraisers.

(2) Attorneys.

(3) Certified level two or level three Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).

(4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund.

(g) With respect to each petition for review filed under subsection (c), the special masters shall:

(1) set a hearing date;

(2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:

(A) the taxpayer;

(B) the department of local government finance;

(C) the township assessor **(if any);** and

(D) the county assessor;

(3) conduct a hearing and hear all evidence submitted under this section; and

(4) make evidentiary findings and file a report with the Indiana board.

(h) At the hearing under subsection (g):

(1) the taxpayer shall present:

(A) the taxpayer's evidence that the assessment or reassessment is incorrect;

(B) the method by which the taxpayer contends the assessment or reassessment should be correctly determined; and

(C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and

(2) the department of local government finance shall present its evidence that the assessment or reassessment is correct.

(i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).

(j) The township assessor **(if any)** and the county assessor may attend and participate in the hearing under subsection (g).

(k) The Indiana board may:

(1) consider the report of the special masters under subsection (g)(4);

(2) make a final determination based on the findings of the special

masters without:

(A) conducting a hearing; or

(B) any further proceedings; and

(3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.

(l) The Indiana board may adopt rules under IC 4-22-2-37.1 to:

(1) establish procedures to expedite:

(A) the conduct of hearings under subsection (g); and

(B) the issuance of determinations of appeals under subsection (k); and

(2) establish deadlines:

(A) for conducting hearings under subsection (g); and

(B) for issuing determinations of appeals under subsection (k).

(m) A determination by the Indiana board of an appeal under subsection (k) is subject to appeal to the tax court under IC 6-1.1-15.

SECTION 85. IC 6-1.1-4-39, AS AMENDED BY P.L.199-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in subsections (c) and (e), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(b) The gross rent multiplier method is the preferred method of valuing:

(1) real property that has at least one (1) and not more than four (4) rental units; and

(2) mobile homes assessed under IC 6-1.1-7.

(c) A township assessor **(if any) or the county assessor** is not required to appraise real property referred to in subsection (a) using the three (3)

appraisal approaches listed in subsection (a) if the ~~township~~ assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. A taxpayer must verify under penalties for perjury any information provided to the **township or county** assessor for use in the application of either method.

(e) The true tax value of low income rental property (as defined in section 41 of this chapter) is not determined under subsection (a). The assessment method prescribed in section 41 of this chapter is the exclusive method for assessment of that property. This subsection does not impede any rights to appeal an assessment.

SECTION 86. IC 6-1.1-4-39.5, AS ADDED BY P.L.233-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39.5. (a) As used in this section, "qualified real property" means a riverboat (as defined in IC 4-33-2-17).

(b) Except as provided in subsection (c), the true tax value of qualified real property is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences using base prices determined under 50 IAC 2.3 and associated guidelines published by the department.

(2) Sales comparison approach, using data for generally comparable property, excluding values attributable to licenses, fees, or personal property as determined under 50 IAC 4.2.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(c) A township **or county** assessor is not required to appraise qualified real property using the three (3) appraisal approaches listed in subsection (b) if the township **or county** assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor

using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method. A taxpayer must verify under penalties for perjury any information provided to the assessor for use in the application of the income capitalization method.

SECTION 87. IC 6-1.1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. Except as provided in section 9 of this chapter, the county auditor of each county shall annually prepare and deliver to the township assessor **(if any) or the county assessor** a list of all real property entered in the township **or county** as of the assessment date. The county auditor shall deliver the list within thirty (30) days after the assessment date. The county auditor shall prepare the list in the form prescribed or approved by the department of local government finance.

SECTION 88. IC 6-1.1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. ~~Except as provided in section 4(b) of this chapter, for all civil townships in which~~ **In a county containing** a consolidated city: ~~is situated,~~

(1) the township assessor has the duties and authority described in sections 1 through 8 of this chapter; **and**

(2) the county assessor has the duties and authority described in sections 1 through 8 of this chapter for a township for which there is no township assessor.

These duties and authority include effecting the transfer of title to real property and preparing, maintaining, approving, correcting, indexing, and publishing the list or record of, or description of title to, real property. If a court renders a judgment for the partition or transfer of real property located in ~~one (1) of these townships,~~ **a county containing a consolidated city,** the clerk of the court shall deliver the transcript to the ~~township~~ **county** assessor.

SECTION 89. IC 6-1.1-5-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.1. (a) Except:

(1) as provided in subsection (b); and

(2) for civil townships described in section 9 of this chapter;

and notwithstanding the provisions of sections 1 through 8 of this chapter, for all other civil townships having a population of thirty-five thousand (35,000) or more, for a civil township that falls below a population of thirty-five thousand (35,000) at a federal decennial census that takes effect after December 31, 2001, and for all other civil townships in which a city

of the second class is located, the township assessor, **or the county assessor if there is no township assessor for the township,** shall make the real property lists and the plats described in sections 1 through 8 of this chapter.

(b) In a civil township that attains a population of thirty-five thousand (35,000) or more at a federal decennial census that takes effect after December 31, 2001, the county auditor shall make the real property lists and the plats described in sections 1 through 8 of this chapter unless the township assessor determines to assume the duty from the county auditor.

(c) With respect to townships in which the township assessor makes the real property lists and the plats described in sections 1 through 8 of this chapter, the county auditor shall, upon completing the tax duplicate, return the real property lists to the township assessor for the continuation of the lists by the assessor. If land located in one (1) of these townships is platted, the plat shall be presented to the township assessor instead of the county auditor, before it is recorded. The township assessor shall then enter the lots or parcels described in the plat on the tax lists in lieu of the land included in the plat.

SECTION 90. IC 6-1.1-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. If a township assessor, **or the county assessor if there is no township assessor for the township,** believes that it is necessary to obtain an accurate description of a specific lot or tract, ~~which is situated in the township he serves,~~ the assessor may demand in writing that the owner or occupant of the lot or tract deliver all the title papers in ~~his~~ **the owner's or occupant's** possession to the assessor for ~~his~~ **the assessor's** examination. If the person fails to deliver the title papers to the assessor at ~~his~~ **the assessor's** office within five (5) days after the demand is mailed, the assessor shall prepare the real property list according to the best information ~~he~~ **the assessor** can obtain. For that purpose, the assessor may examine, under oath, any person whom ~~he~~ **the assessor** believes has any knowledge relevant to the issue.

SECTION 91. IC 6-1.1-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) In order to determine the quantity of land contained within a tract, an assessor shall follow the rules contained in this section.

(b) Except as provided in subsection (c), ~~of this section,~~ the assessor shall recognize the quantity of land stated in a deed or patent if the owner or person in whose name the property is listed holds the land by virtue of:

(1) a deed from another party or from this state; or

(2) a patent from the United States.

(c) If land described in subsection (b) ~~of this section~~ has been surveyed subsequent to the survey made by the United States and if the ~~township~~ **county** assessor is satisfied that the tract contains a different quantity of land than is stated in the patent or deed, the assessor shall recognize the quantity of land stated in the subsequent survey.

(d) Except as provided in ~~subsection (c) of this section,~~ **subsection (f),** a ~~township~~ **county** assessor shall demand in writing that the owner of a tract, or person in whose name the land is listed, have the tract surveyed and that ~~he~~ **the owner or person in whose name the land is listed** return a sworn certificate from the surveyor stating the quantity of land contained in the tract if:

(1) the land was within the French or Clark's grant; and

(2) the party holds the land under original entry or survey.

(e) If the party fails to return the certificate **under subsection (d)** within thirty (30) days after the demand is mailed, the assessor shall have a surveyor survey the land. The expenses of a survey made under this subsection shall be paid for from the county treasury. However, the county auditor shall charge the survey expenses against the land, and the expenses shall be collected with the taxes payable in the succeeding year.

~~(e)~~ **(f)** A ~~township~~ **county** assessor shall not demand a survey of land described in subsection (d) ~~of this section~~ if:

(1) the owner or holder of the land has previously had it surveyed and presents to the assessor a survey certificate which states the quantity of land; or

(2) the assessor is satisfied from other competent evidence, given under oath or affirmation, that the quantity of land stated in the original survey is correct.

SECTION 92. IC 6-1.1-5-14, AS AMENDED BY P.L.88-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. Not later than May 15, each ~~assessing official~~ **township assessor in the county (if any)** shall prepare and deliver to the county assessor a detailed list of the real property listed for taxation in the township. On or before July 1 of each year, each county assessor shall, under oath, prepare and deliver to the county auditor a detailed list of the real property listed for taxation in the county. ~~In a county with an elected township assessor in every township the township assessor shall prepare the real property list.~~ The ~~assessing officials and the~~ county assessor shall prepare the list in the form prescribed by the department of local government finance. ~~The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the~~

~~township assessor.~~

SECTION 93. IC 6-1.1-5-15, AS AMENDED BY P.L.228-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) Except as provided in subsection (b), before an owner of real property demolishes, structurally modifies, or improves it at a cost of more than five hundred dollars ($500) for materials or labor, or both, the owner or the owner's agent shall file with the area plan commission or the county assessor in the county where the property is located an assessment registration notice on a form prescribed by the department of local government finance.

(b) If the owner of the real property, or the person performing the work for the owner, is required to obtain a permit from an agency or official of the state or a political subdivision for the demolition, structural modification, or improvement, the owner or the person performing the work for the owner is not required to file an assessment registration notice.

(c) Each state or local government official or agency shall, before the tenth day of each month, deliver a copy of each permit described in subsection (b) to the assessor of the county in which the real property to be improved is situated. Each area plan commission shall, before the tenth day of each month, deliver a copy of each assessment registration notice described in subsection (a) to the assessor of the county where the property is located.

(d) Before the last day of each month, the county assessor shall distribute a copy of each assessment registration notice filed under subsection (a) or permit received under subsection (b) to the assessor of the township **(if any)** in which the real property to be demolished, modified, or improved is situated.

(e) A fee of five dollars ($5) shall be charged by the area plan commission or the county assessor for the filing of the assessment registration notice. All fees collected under this subsection shall be deposited in the county property reassessment fund.

(f) A township or county assessor shall immediately notify the county treasurer if the assessor discovers property that has been improved or structurally modified at a cost of more than five hundred dollars ($500) and the owner of the property has failed to obtain the required building permit or to file an assessment registration notice.

(g) Any person who fails to:

(1) file the registration notice required by subsection (a); or

(2) obtain a building permit described in subsection (b);

before demolishing, structurally modifying, or improving real property is

subject to a civil penalty of one hundred dollars ($100). The county treasurer shall include the penalty on the person's property tax statement and collect it in the same manner as delinquent personal property taxes under IC 6-1.1-23. However, if a person files a late registration notice, the person shall pay the fee, if any, and the penalty to the area plan commission or the county assessor at the time the person files the late registration notice.

SECTION 94. IC 6-1.1-5.5-3, AS AMENDED BY P.L.219-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) For purposes of this section, "party" includes:

(1) a seller of property that is exempt under the seller's ownership; or

(2) a purchaser of property that is exempt under the purchaser's ownership;

from property taxes under IC 6-1.1-10.

(b) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must do the following:

(1) Complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(2) Before filing a sales disclosure form with the county auditor, submit the sales disclosure form to the county assessor. The county assessor must review the accuracy and completeness of each sales disclosure form submitted immediately upon receipt of the form and, if the form is accurate and complete, stamp the form as eligible for filing with the county auditor and return the form to the appropriate party for filing with the county auditor. If multiple forms are filed in a short period, the county assessor shall process the forms as quickly as possible. For purposes of this subdivision, a sales disclosure form is considered to be accurate and complete if:

(A) the county assessor does not have substantial evidence when the form is reviewed under this subdivision that information in the form is inaccurate; and

(B) the form:

(i) substantially conforms to the sales disclosure form prescribed by the department of local government finance under section 5 of this chapter; and

(ii) is submitted to the county assessor in a format usable to the county assessor.

(3) File the sales disclosure form with the county auditor.

(c) ~~Except as provided in subsection (d),~~ The auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor **(if any).** The township **or county** assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(e) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

(f) County assessing officials and other local officials may not establish procedures or requirements concerning sales disclosure forms that substantially differ from the procedures and requirements of this chapter.

SECTION 95. IC 6-1.1-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. A person who permits a mobile home to be placed on any land which ~~he~~ **the person** owns, possesses, or controls shall report that fact to the assessor of the township in which the land is located, **or the county assessor if there is no township assessor for the township,** within ten (10) days after the mobile home is placed on the land. The ten (10) day period commences the day after the day that the mobile home is placed upon the land.

SECTION 96. IC 6-1.1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. A mobile home which is subject to taxation under this chapter shall be assessed by the assessor of

the township within which the place of assessment is located, **or the county assessor if there is no township assessor for the township.** Each township assessor ~~of a county~~ **and the county assessor** shall certify the assessments of mobile homes to the county auditor in the same manner provided for the certification of personal property assessments. The township **or county** assessor shall make this certification on the forms prescribed by the department of local government finance.

SECTION 97. IC 6-1.1-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. Each year a public utility company shall file a statement with the assessor of each township **(if any)** and county assessor of each county in which the company's property is located. The company shall file the statement on the form prescribed by the department of local government finance. The statement shall contain a description of the company's tangible personal property located in the township **or county.**

SECTION 98. IC 6-1.1-8-24, AS AMENDED BY P.L.88-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) Each year, a township assessor, **or the county assessor if there is no township assessor for the township,** shall assess the fixed property ~~which~~ **that** as of the assessment date of that year is:

(1) owned or used by a public utility company; and

(2) located in the township ~~the township assessor serves.~~ **or county.**

(b) The township **or county** assessor shall determine the assessed value of fixed property. ~~The~~ **A** township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. However, in a county with ~~an elected~~ **a** township assessor in every township, the township assessor shall certify the list to the department of local government finance. The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of ~~the~~ **that** year. ~~of assessment.~~

SECTION 99. IC 6-1.1-8-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 33. A public utility company may appeal a township **or county** assessor's assessment of fixed property in the same manner that it may appeal a township **or county** assessor's assessment of tangible property under ~~IC 1971,~~ **IC** 6-1.1-15.

SECTION 100. IC 6-1.1-8-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39. The annual assessments of a public utility company's property are presumed to include

all the company's property which is subject to taxation under this chapter. However, this presumption does not preclude the subsequent assessment of a specific item of tangible property which is clearly shown to have been omitted from the assessments for that year. The appropriate township assessor, **or the county assessor if there is no township assessor for the township,** shall make assessments of omitted fixed property. The department of local government finance shall make assessments of omitted distributable property. However, the department of local government finance may not assess omitted distributable property after the expiration of ten (10) years from the last day of the year in which the assessment should have been made.

SECTION 101. IC 6-1.1-8.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The township assessor **(if any)** of each township in a qualifying county shall notify the department of local government finance of a newly constructed industrial facility that is located in the township served by the township assessor. **The county assessor shall perform this duty for a township in a qualifying county if there is no township assessor for the township.**

(b) Each building commissioner in a qualifying county shall notify the department of local government finance of a newly constructed industrial facility that is located in the jurisdiction served by the building commissioner.

(c) The department of local government finance shall schedule an assessment under this chapter of a newly constructed industrial facility within six (6) months after receiving notice of the construction ~~from the appropriate township assessor or building commissioner.~~ **under this section.**

SECTION 102. IC 6-1.1-9-1, AS AMENDED BY P.L.219-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. If a township assessor **(if any),** county assessor, or county property tax assessment board of appeals believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls or the tax duplicate for any year or years, the official or board shall give written notice under IC 6-1.1-3-20 or IC 6-1.1-4-22 of the assessment or increase in assessment. The notice shall contain a general description of the property and a statement describing the taxpayer's right to a review with the county property tax assessment board of appeals under IC 6-1.1-15-1.

SECTION 103. IC 6-1.1-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The county assessor shall obtain

from the county auditor or the township assessors **(if any)** all returns for tangible property made by the township assessors of the county and all assessment lists, schedules, statements, maps, and other books and papers filed with the county auditor by the township assessors. For purposes of discovering undervalued or omitted property, the county assessor shall carefully examine the county tax duplicates and all other pertinent records and papers of the county auditor, treasurer, recorder, clerk, sheriff, and surveyor. The county assessor shall, in the manner prescribed in this article, assess all omitted or undervalued tangible property which is subject to assessment.

SECTION 104. IC 6-1.1-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The owner of an industrial waste control facility who wishes to obtain the exemption provided in section 9 of this chapter shall file an exemption claim **along** with the ~~assessor of the township in which the property is located when he files his~~ **owner's** annual personal property return. The claim shall describe and state the assessed value of the property for which an exemption is claimed.

(b) The owner shall, by registered or certified mail, forward a copy of the exemption claim to the department of environmental management. The department shall acknowledge its receipt of the claim.

(c) The department of environmental management may investigate any claim. The department may also determine if the property for which the exemption is claimed is being utilized as an industrial waste control facility. Within one hundred twenty (120) days after a claim is mailed to the department, the department may certify its written determination to the township **or county** assessor with whom the claim was filed.

(d) The determination of the department remains in effect:

(1) as long as the owner owns the property and uses the property as an industrial waste control facility; or

(2) for five (5) years;

whichever is less. In addition, during the five (5) years after the department's determination the owner of the property must notify the ~~township~~ **county** assessor and the department in writing if any of the property on which the department's determination was based is disposed of or removed from service as an industrial waste control facility.

(e) The department may revoke a determination if the department finds that the property is not predominantly used as an industrial waste control facility.

(f) The township **or county** assessor, in accord with the determination

of the department, shall allow or deny in whole or in part each exemption claim. However, if the owner provides the assessor with proof that a copy of the claim has been mailed to the department, and if the department has not certified a determination to the assessor within one hundred twenty (120) days after the claim has been mailed to the department, the assessor shall allow the total exemption claimed by the owner.

(g) The assessor shall reduce the assessed value of the owner's personal property for the year for which an exemption is claimed by the amount of exemption allowed.

SECTION 105. IC 6-1.1-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The owner of personal property which is part of a stationary or unlicensed mobile air pollution control system who wishes to obtain the exemption provided in section 12 of this chapter shall claim the exemption on ~~his~~ **the owner's** annual personal property return. ~~which he files with the assessor of the township in which the property is located.~~ On the return, the owner shall describe and state the assessed value of the property for which the exemption is claimed.

(b) The township **or county** assessor shall:

(1) review the exemption claim; and ~~he shall~~

(2) allow or deny it in whole or in part.

In making ~~his~~ **the** decision, the township **or county** assessor shall consider the requirements stated in section 12 of this chapter.

(c) The township **or county** assessor shall reduce the assessed value of the owner's personal property for the year for which the exemption is claimed by the amount of exemption allowed.

SECTION 106. IC 6-1.1-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The action taken by a township **or county** assessor on an exemption claim filed under section 10 or ~~section~~ 13 of this chapter shall be treated as an assessment of personal property. Thus, the assessor's action is subject to all the provisions of this article pertaining to notice, review, or appeal of personal property assessments.

SECTION 107. IC 6-1.1-11-3, AS AMENDED BY P.L.219-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Subject to subsections (e), (f), and (g), an owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before

May 15 on forms prescribed by the department of local government finance. Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) For the year that ends on the assessment date of the property, identification of:

(A) each part of the property used or occupied; and

(B) each part of the property not used or occupied;

for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.

(6) Any additional information which the department of local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

(e) An owner must file with an application for exemption of real property under subsection (a) or section 5 of this chapter a copy of the ~~township~~ assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall: ~~direct the township assessor of the township in which the real property is located to:~~

(1) properly assess the real property **or direct the township assessor**

to properly assess the real property; and

(2) notify the ~~county assessor and~~ county auditor of the proper assessment **or direct the township assessor to notify the county auditor of the proper assessment.**

(f) If the county assessor determines that the applicant has not filed with an application for exemption a copy of the record referred to in subsection (e), the county assessor shall notify the applicant in writing of that requirement. The applicant then has thirty (30) days after the date of the notice to comply with that requirement. The county property tax assessment board of appeals shall deny an application described in this subsection if the applicant does not comply with that requirement within the time permitted under this subsection.

(g) This subsection applies whenever a law requires an exemption to be claimed on or in an application accompanying a personal property tax return. The claim or application may be filed on or with a personal property tax return not more than thirty (30) days after the filing date for the personal property tax return, regardless of whether an extension of the filing date has been granted under IC 6-1.1-3-7.

SECTION 108. IC 6-1.1-12-12, AS AMENDED BY P.L.183-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided in section 11 of this chapter must file an application, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed during the twelve (12) months before June 11 ~~of~~ each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of ~~a county office of family and children,~~ the division of family resources or the division of disability and rehabilitative services; or

(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 109. IC 6-1.1-12-20, AS AMENDED BY P.L.154-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before June 11 of the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before May 11 of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township **or county** assessor.

(c) The application required by this section shall contain the following information:

(1) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(2) Statements of the ownership of the property.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The number of dwelling units on the property.

(5) The number of dwelling units rehabilitated.

(6) The increase in assessed value resulting from the rehabilitation. ~~and~~

(7) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the increase in assessed value occurs and for the immediately following four (4) years without any additional application being filed.

(e) On verification of an application by the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township,** the county auditor shall make the

deduction.

SECTION 110. IC 6-1.1-12-24, AS AMENDED BY P.L.154-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before June 11 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for any year is not given to the property owner before May 11 of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township **or county** assessor.

(c) The application required by this section shall contain the following information:

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation. ~~and~~

(5) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the addition to assessed value is made and in the immediate following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township,** the county auditor shall make the deduction.

SECTION 111. IC 6-1.1-12-27.1, AS AMENDED BY P.L.183-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27.1. Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 26 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With

respect to real property, the person must file the statement during the twelve (12) months before June 11 of each year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, **or the county assessor if there is no township assessor for the township,** the county auditor shall allow the deduction.

SECTION 112. IC 6-1.1-12-28.5, AS AMENDED BY P.L.137-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28.5. (a) For purposes of this section:

(1) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a) and includes a waste determined to be a hazardous waste under IC 13-22-2-3(b).

(2) "Resource recovery system" means tangible property directly used to dispose of solid waste or hazardous waste by converting it into energy or other useful products.

(3) "Solid waste" has the meaning set forth in IC 13-11-2-205(a) but does not include dead animals or any animal solid or semisolid wastes.

(b) Except as provided in this section, the owner of a resource recovery system is entitled to an annual deduction in an amount equal to ninety-five percent (95%) of the assessed value of the system if:

(1) the system was certified by the department of environmental management for the 1993 assessment year or a prior assessment year; and

(2) the owner filed a timely application for the deduction for the 1993 assessment year.

For purposes of this section, a system includes tangible property that replaced tangible property in the system after the certification by the department of environmental management.

(c) The owner of a resource recovery system that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of any violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or a criminal statute under IC 13; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based upon a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(d) The certification of a resource recovery system by the department of environmental management for the 1993 assessment year or a prior assessment year is valid through the 1997 assessment year so long as the property is used as a resource recovery system. If the property is no longer used for the purpose for which the property was used when the property was certified, the owner of the property shall notify the county auditor. However, the deduction from the assessed value of the system is:

(1) ninety-five percent (95%) for the 1994 assessment year;

(2) ninety percent (90%) for the 1995 assessment year;

(3) seventy-five percent (75%) for the 1996 assessment year; and

(4) sixty percent (60%) for the 1997 assessment year.

Notwithstanding this section as it existed before 1995, for the 1994 assessment year, the portion of any tangible property comprising a resource recovery system that was assessed and first deducted for the 1994 assessment year may not be deducted for property taxes first due and payable in 1995 or later.

(e) In order to qualify for a deduction under this section, the person who desires to claim the deduction must file an application with the county auditor after February 28 and before May 16 of the current assessment year. An application must be filed in each year for which the person desires to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. If the application is not filed before the applicable deadline under this subsection, the deduction is waived. The application must be filed on a form prescribed by the department of local government finance. The application for a resource recovery system deduction must include:

(1) a certification by the department of environmental management for the 1993 assessment year or a prior assessment year as described in subsection (d); or

(2) the certification by the department of environmental management for the 1993 assessment year as described in subsection (g).

Beginning with the 1995 assessment year a person must also file an itemized list of all property on which a deduction is claimed. The list must include the date of purchase of the property and the cost to acquire the property.

(f) Before July 1, 1995, the department of environmental management shall transfer all the applications, records, or other material the department has with respect to resource recovery system deductions under this section for the 1993 and 1994 assessment years. The township assessor, **or the county assessor if there is no township assessor for the township,** shall verify each deduction application filed under this section and the county auditor shall determine the deduction. The county auditor shall send to the department of local government finance a copy of each deduction application. The county auditor shall notify the county property tax assessment board of appeals of all deductions allowed under this section. A denial of a deduction claimed under this subsection may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township **assessor, the county** assessor, or the county auditor.

(g) Notwithstanding subsection (d), the certification for the 1993 assessment year of a resource recovery system in regard to which a political subdivision is liable for the payment of the property taxes remains valid at the ninety-five percent (95%) deduction level allowed before 1994 as long as the political subdivision remains liable for the payment of the property taxes on the system.

SECTION 113. IC 6-1.1-12-30, AS AMENDED BY P.L.183-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 29 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement during the twelve (12) months before June 11 of each year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, **or the county assessor if there is no township assessor for the township,** the county auditor shall allow the deduction.

SECTION 114. IC 6-1.1-12-35.5, AS AMENDED BY P.L.183-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35.5. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section

31, 33, 34, or 34.5 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) or (f) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement during the twelve (12) months before June 11 of the assessment year. The person must file the statement in each year for which the person desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, **or the county assessor if there is no township assessor for the township,** the county auditor shall allow the deduction.

(b) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. If the department of environmental management receives an application for certification before May 11 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before June 11 of the assessment year. If the department fails to make a determination under this subsection before June 11 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, 34, or 34.5 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) during the twelve (12) months before June 11 of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 21-47-4-1, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter before May 11 of an assessment year:

(1) the center shall determine whether the building qualifies for a deduction before June 11 of the assessment year; and

(2) if the center fails to make a determination before June 11 of the assessment year, the building is considered certified.

SECTION 115. IC 6-1.1-12-37, AS AMENDED BY P.L.224-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 37. (a) **The following definitions apply throughout this section:**

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence that:

(A) is located in Indiana;

(B) the individual:

(i) owns;

(ii) is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or

(iii) is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); and

(C) consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(b) Each year ~~a person~~ **an individual** who **on March 1 of a particular year or, in the case of a mobile home that is assessed as personal property, the immediately following January 15, either owns or is buying a homestead under a contract, recorded in the county recorder's office, that provides the individual is to pay property taxes on the homestead** is entitled to ~~receive the homestead credit provided under IC 6-1.1-20.9 for property taxes payable in the following year is entitled to~~ a standard deduction from the assessed value of the ~~real property, mobile home not assessed as real property, or manufactured home not assessed as real property that qualifies for the~~ homestead. ~~credit.~~ The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

~~(b)~~ **(c)** Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) ~~one-half (1/2)~~ **sixty percent (60%)** of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) ~~for property taxes first due and payable:~~

~~(A) before January 1, 2007, thirty-five thousand dollars ($35,000);~~

~~(B) after December 31, 2006, and before January 1, 2009,~~ forty-five thousand dollars ($45,000).

~~(C) after December 31, 2008, and before January 1,~~ 2010, ~~forty-four thousand dollars ($44,000);~~

~~(D) after December 31, 2009, and before January 1, 2011, forty-three thousand dollars ($43,000);~~

~~(E) after December 31, 2010, and before January 1, 2012, forty-two thousand dollars ($42,000);~~

~~(F) after December 31, 2011, and before January 1, 2013, forty-one thousand dollars ($41,000); and~~

~~(G) after December 31, 2012, forty thousand dollars ($40,000).~~

~~(c)~~ **(d)** A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section.

(f) The county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

SECTION 116. IC 6-1.1-12-37.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 37.5. (a) A person who is entitled to a standard deduction from the assessed value of property under section 37 of this chapter is also entitled to receive a supplemental deduction from the assessed value of the homestead to which the standard deduction applies after the application of the standard deduction but before the application of any other deduction, exemption, or credit for which the person is eligible.**

(b) The amount of the deduction under this section is equal to the sum of the following:

(1) Thirty-five percent (35%) of the assessed value determined under subsection (a) that is not more than six hundred thousand dollars ($600,000).

(2) Twenty-five percent (25%) of the assessed value determined under subsection (a) that is more than six hundred thousand dollars ($600,000).

(c) The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

(d) The deduction granted under this section shall not be considered in applying section 40.5 of this chapter to the deductions applicable to property. Section 40.5 of this chapter does not apply to the deduction granted under this section.

SECTION 117. IC 6-1.1-12-38, AS AMENDED BY SEA 190-2008,

SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-16-2-44 and the pesticide storage rules adopted by the state chemist under IC 15-16-4-52; minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-16-2-44 and the pesticide storage rules adopted by the state chemist under IC 15-16-4-52.

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement, the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under IC 15-16-2-44 and the pesticide storage rules adopted by the state chemist under IC 15-16-4-52. The statement and certification must be filed before June 11 of the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the property is subject to assessment, **or the county assessor if there is no township assessor for the township,** the county auditor shall allow the deduction.

SECTION 118. IC 6-1.1-12-41, AS AMENDED BY P.L.199-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. (a) This section does not apply to assessment years beginning after December 31, 2005.

(b) As used in this section, "assessed value of inventory" means the assessed value determined after the application of any deductions or adjustments that apply by statute or rule to the assessment of inventory, other than the deduction allowed under subsection (f).

(c) As used in this section, "county income tax council" means a council established by IC 6-3.5-6-2.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "inventory" has the meaning set forth in

IC 6-1.1-3-11 **(repealed).**

(f) An ordinance may be adopted in a county to provide that a deduction applies to the assessed value of inventory located in the county. The deduction is equal to one hundred percent (100%) of the assessed value of inventory located in the county for the appropriate year of assessment. An ordinance adopted under this section in a particular year applies:

(1) if adopted before March 31, 2004, to each subsequent assessment year ending before January 1, 2006; and

(2) if adopted after March 30, 2004, and before June 1, 2005, to the March 1, 2005, assessment date.

An ordinance adopted under this section may be consolidated with an ordinance adopted under IC 6-3.5-7-25 or IC 6-3.5-7-26. The consolidation of an ordinance adopted under this section with an ordinance adopted under IC 6-3.5-7-26 does not cause the ordinance adopted under IC 6-3.5-7-26 to expire after December 31, 2005.

(g) An ordinance may not be adopted under subsection (f) after May 30, 2005. However, an ordinance adopted under this section:

(1) before March 31, 2004, may be amended after March 30, 2004; and

(2) before June 1, 2005, may be amended after May 30, 2005;

to consolidate an ordinance adopted under IC 6-3.5-7-26.

(h) The entity that may adopt the ordinance permitted under subsection (f) is:

(1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;

(2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or

(3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

To adopt an ordinance under subsection (f), a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax. The entity that adopts the ordinance shall provide a certified copy of the ordinance to the department of local government finance before February 1.

(i) A taxpayer is not required to file an application to qualify for the deduction permitted under subsection (f).

(j) The department of local government finance shall incorporate the deduction established in this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form. If a taxpayer fails to enter the deduction on the form, the township assessor, **or the county assessor if there is no township assessor for the township,** shall:

(1) determine the amount of the deduction; and

(2) within the period established in IC 6-1.1-16-1, issue a notice of assessment to the taxpayer that reflects the application of the deduction to the inventory assessment.

(k) The deduction established in this section must be applied to any inventory assessment made by:

(1) an assessing official;

(2) a county property tax board of appeals; or

(3) the department of local government finance.

SECTION 119. IC 6-1.1-12-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) As used in this section, "assessed value of inventory" means the assessed value determined after the application of any deductions or adjustments that apply by statute or rule to the assessment of inventory, other than the deduction established in subsection (c).

(b) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11 **(repealed).**

(c) A taxpayer is entitled to a deduction from assessed value equal to one hundred percent (100%) of the taxpayer's assessed value of inventory ~~beginning with~~ **for** assessments made in 2006 for property taxes first due and payable in 2007.

(d) A taxpayer is not required to file an application to qualify for the deduction established by this section.

(e) The department of local government finance shall incorporate the deduction established by this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form. If a taxpayer fails to enter the deduction on the form, the township assessor, **or the county assessor if there is no township assessor for the township,** shall:

(1) determine the amount of the deduction; and

(2) within the period established in IC 6-1.1-16-1, issue a notice of assessment to the taxpayer that reflects the application of the deduction to the inventory assessment.

(f) The deduction established by this section must be applied to any

inventory assessment made by:

(1) an assessing official;

(2) a county property tax assessment board of appeals; or

(3) the department of local government finance.

SECTION 120. IC 6-1.1-12-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 43. (a) For purposes of this section:

(1) "benefit" refers to

~~(A)~~ a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, or 34 of this chapter; ~~or~~

~~(B) the homestead credit under IC 6-1.1-20.9-2;~~

(2) "closing agent" means a person that closes a transaction;

(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) A closing agent to which this section applies shall document its compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

(f) A closing agent is subject to a civil penalty of twenty-five dollars ($25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the ~~property tax replacement~~ **state general** fund.

A closing agent is not liable for any other damages claimed by a customer because of the closing agent's mere failure to provide the appropriate document to the customer.

(g) The state agency that has administrative jurisdiction over a closing agent shall:

(1) examine the closing agent to determine compliance with this section; and

(2) impose and collect penalties under subsection (f).

SECTION 121. IC 6-1.1-12.1-2, AS AMENDED BY P.L.154-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular

area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the

additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by section 3, 4.5, or 4.8 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following four (4) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(4) One (1) relative to the deduction allowed under section 4.8 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the economic revitalization area shall be so designated;

(2) limit the type of deductions that will be allowed within the economic revitalization area to the deduction allowed under section 3 of this chapter, the deduction allowed under section 4.5 of this chapter, the deduction allowed under section 4.8 of this chapter, or any combination of these deductions;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, and new information technology equipment if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988;

(5) limit the dollar amount of the deduction that will be allowed under section 4.8 of this chapter with respect to the occupation of an eligible vacant building; or

(6) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

To exercise one (1) or more of these powers, a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment installed on or before the approval deadline determined under section 9 of this chapter, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, new research and development equipment, new logistical distribution equipment,

or new information technology equipment was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4, 4.5, or 4.8 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) **In addition to the other requirements of this chapter,** if property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), ~~an application for the property tax deduction provided by this chapter~~ **a taxpayer's statement of benefits concerning that property** may not be approved **under this chapter** unless ~~the commission that designated the allocation area adopts~~ a resolution approving the ~~application~~ **statement of benefits is adopted by the legislative body of the unit that approved the designation of the allocation area.**

SECTION 122. IC 6-1.1-12.1-4.5, AS AMENDED BY HEA 1137-2008, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).~~

~~(b)~~ **(a)** An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of

benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

~~(c)~~ **(b)** The designating body must review the statement of benefits required under subsection ~~(b).~~ **(a).** The designating body shall determine whether an area should be designated an economic revitalization area or

whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings

required by this subsection in the affirmative.

~~(d)~~ **(c)** Except as provided in subsection ~~(h),~~ **(g),** and subject to subsection ~~(i)~~ **(h)** and section 15 of this chapter, an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection ~~(g).~~ **(f).** Except as provided in subsection ~~(f)~~ **(e)** and in section 2(i)(3) of this chapter, and subject to subsection ~~(i)~~ **(h)** and section 15 of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment in the year of deduction under the appropriate table set forth in subsection ~~(c);~~ **(d);** multiplied by

(2) the percentage prescribed in the appropriate table set forth in subsection ~~(c).~~ **(d).**

~~(c)~~ **(d)** The percentage to be used in calculating the deduction under subsection ~~(d)~~ **(c)** is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%

3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%

9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

~~(f)~~ **(e)** With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

~~(g)~~ **(f)** For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to

a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

~~(h)~~ **(g)** The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a criminal violation under IC 13, including IC 13-7-13-3 (repealed) or IC 13-7-13-4 (repealed); or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

~~(i)~~ **(h)** For purposes of subsection ~~(d),~~ **(c),** the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9

determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 123. IC 6-1.1-12.1-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 4.7. (a) Section ~~4.5(f)~~ **4.5(e)** of this chapter does not apply to new manufacturing equipment located in a township having a population of more than four thousand (4,000) but less than seven thousand (7,000) located in a county having a population of more than forty thousand (40,000) but less than forty thousand nine hundred (40,900) if the total original cost of all new manufacturing equipment placed into service by the owner during the preceding sixty (60) months exceeds fifty million dollars ($50,000,000), and if the economic revitalization area in which the new manufacturing equipment was installed was approved by the designating body before September 1, 1994.

(b) Section ~~4.5(f)~~ **4.5(e)** of this chapter does not apply to new manufacturing equipment located in a county having a population of more than thirty-two thousand (32,000) but less than thirty-three thousand (33,000) if:

(1) the total original cost of all new manufacturing equipment placed into service in the county by the owner exceeds five hundred million dollars ($500,000,000); and

(2) the economic revitalization area in which the new manufacturing equipment was installed was approved by the designating body before January 1, 2001.

(c) A deduction under section ~~4.5(d)~~ **4.5(c)** of this chapter is not allowed with respect to new manufacturing equipment described in subsection (b) in the first year the deduction is claimed or in subsequent years as permitted by section ~~4.5(d)~~ **4.5(c)** of this chapter to the extent the deduction would cause the assessed value of all real property and personal property of the owner in the taxing district to be less than the incremental net assessed value for that year.

(d) The following apply for purposes of subsection (c):

(1) A deduction under section ~~4.5(d)~~ **4.5(c)** of this chapter shall be disallowed only with respect to new manufacturing equipment installed after March 1, 2000.

(2) "Incremental net assessed value" means the sum of:

(A) the net assessed value of real property and depreciable personal property from which property tax revenues are required to be held in trust and pledged for the benefit of the owners of bonds issued by the redevelopment commission of a county described in subsection (b) under resolutions adopted November 16, 1998, and July 13, 2000 (as amended November 27, 2000); plus

(B) fifty-four million four hundred eighty-one thousand seven hundred seventy dollars ($54,481,770).

(3) The assessed value of real property and personal property of the owner shall be determined after the deductions provided by sections 3 and 4.5 of this chapter.

(4) The personal property of the owner shall include inventory.

(5) The amount of deductions provided by section 4.5 of this chapter with respect to new manufacturing equipment that was installed on or before March 1, 2000, shall be increased from thirty-three and one-third percent (33 1/3%) of true tax value to one hundred percent (100%) of true tax value for assessment dates after February 28, 2001.

(e) A deduction not fully allowed under subsection (c) in the first year the deduction is claimed or in a subsequent year permitted by section 4.5 of this chapter shall be carried over and allowed as a deduction in succeeding years. A deduction that is carried over to a year but is not allowed in that year under this subsection shall be carried over and allowed as a deduction in succeeding years. The following apply for purposes of this subsection:

(1) A deduction that is carried over to a succeeding year is not allowed in that year to the extent that the deduction, together with:

(A) deductions otherwise allowed under section 3 of this chapter;

(B) deductions otherwise allowed under section 4.5 of this chapter; and

(C) other deductions carried over to the year under this subsection;

would cause the assessed value of all real property and personal property of the owner in the taxing district to be less than the incremental net assessed value for that year.

(2) Each time a deduction is carried over to a succeeding year, the deduction shall be reduced by the amount of the deduction that was allowed in the immediately preceding year.

(3) A deduction may not be carried over to a succeeding year under

this subsection if such year is after the period specified in section ~~4.5(d)~~ **4.5(c)** of this chapter or the period specified in a resolution adopted by the designating body under section ~~4.5(h)~~ **4.5(g)** of this chapter.

SECTION 124. IC 6-1.1-12.1-5, AS AMENDED BY P.L.193-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A property owner who desires to obtain the deduction provided by section 3 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township **or county** assessor.

(c) The deduction application required by this section must contain the following information:

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(7) If the deduction application is for a deduction in a residentially distressed area, the assessed value of the improvement or new structure for which the deduction is claimed.

(d) A deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the following years the deduction is allowed without any additional deduction application being filed. However, property owners who had an area designated an urban development area pursuant to a deduction application filed prior to

January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to a deduction application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(e) A property owner who desires to obtain the deduction provided by section 3 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent years without any additional deduction application being filed for the amounts of the deduction which would be applicable to such years pursuant to section 4 of this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) Subject to subsection (i), the county auditor shall act as follows:

(1) If a determination about the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.

(3) If the deduction application is for rehabilitation or redevelopment in a residentially distressed area, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 3 of this chapter are not affected by a change in the ownership of the property if the new owner of the property:

(1) continues to use the property in compliance with any standards established under section 2(g) of this chapter; and

(2) files an application in the manner provided by subsection (e).

(h) The township **or county** assessor shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

(i) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which

the property is located, **or the county assessor if there is no township assessor for the township,** review the deduction application.

(j) A property owner may appeal a determination of the county auditor under subsection (f) to deny or alter the amount of the deduction by requesting in writing a preliminary conference with the county auditor not more than forty-five (45) days after the county auditor gives the person notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 125. IC 6-1.1-12.1-5.3, AS ADDED BY P.L.154-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.3. (a) A property owner that desires to obtain the deduction provided by section 4.8 of this chapter must file a deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the eligible vacant building is located. Except as otherwise provided in this section, the deduction application must be filed before May 10 of the year in which the property owner or a tenant of the property owner initially occupies the eligible vacant building.

(b) If notice of the assessed valuation or new assessment for a year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date the notice is mailed to the property owner at the address shown on the records of the township **or county** assessor.

(c) The deduction application required by this section must contain the following information:

(1) The name of the property owner and, if applicable, the property owner's tenant.

(2) A description of the property for which a deduction is claimed.

(3) The amount of the deduction claimed for the first year of the deduction.

(4) Any other information required by the department of local government finance or the designating body.

(d) A deduction application filed under this section applies to the year in which the property owner or a tenant of the property owner occupies the eligible vacant building and in the following year if the deduction is allowed for a two (2) year period, without an additional deduction application being filed.

(e) A property owner that desires to obtain the deduction provided by section 4.8 of this chapter but that did not file a deduction application

within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year. A deduction application filed under this subsection applies to the year in which the deduction application is filed and the following year if the deduction is allowed for a two (2) year period, without an additional deduction application being filed. The amount of the deduction under this subsection is the amount that would have been applicable to the year under section 4.8 of this chapter if the deduction application had been filed in accordance with subsection (a) or (b).

(f) Subject to subsection (i), the county auditor shall do the following:

(1) If a determination concerning the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination concerning the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided by section 4.8 of this chapter are not affected by a change in the ownership of the eligible vacant building or a change in the property owner's tenant, if the new property owner or the new tenant:

(1) continues to occupy the eligible vacant building in compliance with any standards established under section 2(g) of this chapter; and

(2) files an application in the manner provided by subsection (e).

(h) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which the eligible vacant building is located, **or the county assessor if there is no township assessor for the township,** review the deduction application.

(i) A property owner may appeal a determination of the county auditor under subsection (f) by requesting in writing a preliminary conference with the county auditor not more than forty-five (45) days after the county auditor gives the property owner notice of the determination. An appeal under this subsection shall be processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

(j) In addition to the requirements of subsection (c), a property owner that files a deduction application under this section must provide the county auditor and the designating body with information showing the

extent to which there has been compliance with the statement of benefits approved under section 4.8 of this chapter. This information must be included in the deduction application and must also be updated each year in which the deduction is applicable:

(1) at the same time that the property owner or the property owner's tenant files a personal property tax return for property located at the eligible vacant building for which the deduction was granted; or

(2) if subdivision (1) does not apply, before May 15 of each year.

(k) The following information is a public record if filed under this section:

(1) The name and address of the property owner.

(2) The location and description of the eligible vacant building for which the deduction was granted.

(3) Any information concerning the number of employees at the eligible vacant building for which the deduction was granted, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to the employees described in subdivision (3), including estimated totals that are provided as part of the statement of benefits.

(5) Any information concerning the assessed value of the eligible vacant building, including estimates that are provided as part of the statement of benefits.

(l) Information concerning the specific salaries paid to individual employees by the property owner or tenant is confidential.

SECTION 126. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.193-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction schedule with the person's personal property return on a form prescribed by the department of local government finance with the township assessor of the township in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is located, **or with the county assessor if there is no township assessor for the township.** Except as provided in subsection (e), the deduction is applied in the amount claimed in a certified schedule that a person files with:

(1) a timely personal property return under IC 6-1.1-3-7(a) or IC 6-1.1-3-7(b); or

(2) a timely amended personal property return under IC 6-1.1-3-7.5.

The township **or county** assessor shall forward to the county auditor ~~and the county assessor~~ a copy of each certified deduction schedule filed under this subsection. **The township assessor shall forward to the county assessor a copy of each certified deduction schedule filed with the township assessor under this subsection.**

(b) The deduction schedule required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(2) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction schedule with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction schedule to the designating body, and the designating body shall adopt a resolution under section ~~4.5(g)(2)~~ **4.5(f)(2)** of this chapter.

(d) A deduction schedule must be filed under this section in the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is installed and in each of the immediately succeeding years the deduction is allowed.

(e) The township assessor, or the county assessor **if there is no township assessor for the township,** may:

(1) review the deduction schedule; and

(2) before the March 1 that next succeeds the assessment date for which the deduction is claimed, deny or alter the amount of the deduction.

If the township ~~assessor~~ or ~~the~~ county assessor does not deny the deduction, the county auditor shall apply the deduction in the amount claimed in the deduction schedule or in the amount as altered by the township ~~assessor~~ or ~~the~~ county assessor. A township ~~assessor~~ or ~~a~~ county assessor who denies a deduction under this subsection or alters the amount

of the deduction shall notify the person that claimed the deduction and the county auditor of the assessor's action. The county auditor shall notify the designating body and the county property tax assessment board of appeals of all deductions applied under this section.

(f) If the ownership of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction schedules required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal a determination of the township ~~assessor~~ or ~~the~~ county assessor under subsection (e) to deny or alter the amount of the deduction by requesting in writing a preliminary conference with the township ~~assessor~~ or ~~the~~ county assessor not more than forty-five (45) days after the township ~~assessor~~ or ~~the~~ county assessor gives the person notice of the determination. Except as provided in subsection (i), an appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

(i) The county assessor is recused from any action the county property tax assessment board of appeals takes with respect to an appeal under subsection (h) of a determination by the county assessor.

SECTION 127. IC 6-1.1-12.1-5.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment or developed or rehabilitated property at a cost of at least ten million dollars ($10,000,000) as determined by the assessor of the township in which the property is located, **or by the**

county assessor if there is no township assessor for the township.

SECTION 128. IC 6-1.1-12.1-5.9, AS AMENDED BY HEA 1137-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.9. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.

(b) Not later than forty-five (45) days after receipt of the information described in section 5.1, 5.3(j), or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3, 4.5, or 4.8 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, 4.5, or 4.8 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner

or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

(1) the property owner;

(2) the county auditor; and

(3) ~~if the deduction applied under section 4.5 of this chapter,~~ the ~~township~~ **county** assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8.1, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

SECTION 129. IC 6-1.1-12.4-1, AS ADDED BY P.L.193-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. For purposes of this chapter, "official" means:

(1) a county auditor;

(2) a county assessor; or

(3) a township assessor **(if any).**

SECTION 130. IC 6-1.1-12.4-2, AS AMENDED BY HEA 1137-2008, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) For purposes of this section, an increase in the assessed value of real property is determined in the same manner that an increase in the assessed value of real property is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to a development, redevelopment, or

rehabilitation that is first assessed after March 1, 2005, and before March 2, 2007. Except as provided in subsection (h) and sections 4, 5, and 8 of this chapter, an owner of real property that:

(1) develops, redevelops, or rehabilitates the real property; and

(2) creates or retains employment from the development, redevelopment, or rehabilitation;

is entitled to a deduction from the assessed value of the real property.

(c) Subject to section 14 of this chapter, the deduction under this section is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to real property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the development, rehabilitation, or redevelopment; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) A property owner that qualifies for the deduction under this section must file a notice to claim the deduction in the manner prescribed by the department of local government finance under rules adopted by the department of local government finance under IC 4-22-2 to implement this chapter. The township assessor, **or the county assessor if there is no township assessor for the township,** shall:

(1) inform the county auditor of the real property eligible for the deduction as contained in the notice filed by the taxpayer under this subsection; and

(2) inform the county auditor of the deduction amount.

(e) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(f) The amount of the deduction determined under subsection (c)(2) is adjusted to reflect the percentage increase or decrease in assessed valuation that results from:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment under IC 6-1.1-4-4.5.

(g) If an appeal of an assessment is approved that results in a reduction of the assessed value of the real property, the amount of the deduction under this section is adjusted to reflect the percentage decrease that results from the appeal.

(h) The deduction under this section does not apply to a facility listed in IC 6-1.1-12.1-3(e).

SECTION 131. IC 6-1.1-12.4-3, AS AMENDED BY HEA 1137-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) For purposes of this section, an increase in the assessed value of personal property is determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to personal property that the owner purchases after March 1, 2005, and before March 2, 2007. Except as provided in sections 4, 5, and 8 of this chapter, an owner that purchases personal property ~~other than inventory (as defined in 50 IAC 4.2-5-1, as in effect on January 1, 2005)~~ that:

(1) was never before used by its owner for any purpose in Indiana; and

(2) creates or retains employment;

is entitled to a deduction from the assessed value of the personal property.

(c) Subject to section 14 of this chapter, the deduction under this section is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the purchase of the personal property; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) If an appeal of an assessment is approved that results in a reduction of the assessed value of the personal property, the amount of the deduction

is adjusted to reflect the percentage decrease that results from the appeal.

(e) A property owner must claim the deduction under this section on the owner's annual personal property tax return. The township assessor, **or the county assessor if there is no township assessor for the township,** shall:

(1) identify the personal property eligible for the deduction to the county auditor; and

(2) inform the county auditor of the deduction amount.

(f) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(g) The deduction under this section does not apply to personal property at a facility listed in IC 6-1.1-12.1-3(e).

SECTION 132. IC 6-1.1-12.4-9, AS AMENDED BY HEA1137-2008, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. If an official terminates a deduction under section 8 of this chapter:

(1) the official shall immediately mail a certified copy of the determination to:

(A) the property owner; and

(B) if the determination is made by the county assessor or the township assessor **(if any),** the county auditor;

(2) the county auditor shall:

(A) remove the deduction from the tax duplicate; and

(B) notify the county treasurer of the termination of the deduction; and

(3) if the official's determination to terminate the deduction occurs after the county treasurer has mailed the statement required by IC 6-1.1-22-8.1, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

SECTION 133. IC 6-1.1-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. When the county property tax assessment board of appeals convenes, the county auditor shall submit to the board the assessment list of the county for the current year as returned by the township assessors **(if any)** and as amended and returned by the county assessor. The county assessor shall make recommendations to the board for corrections and changes in the returns

and assessments. The board shall consider and act upon all the recommendations.

SECTION 134. IC 6-1.1-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The county assessor, a township assessor **(if any),** or ten (10) or more taxpayers who are affected by an equalization order issued under section 5 of this chapter may file a petition for review of the order with the county ~~assessor~~ **auditor** of the county to which the equalization order is issued. The petition must be filed within ten (10) days after notice of the order is given under section 9 of this chapter. The petition shall set forth, in the form and detail prescribed by the department of local government finance, the objections to the equalization order.

SECTION 135. IC 6-1.1-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) If a petition for review of an equalization order is filed with a county auditor under section 7 of this chapter, the county auditor shall immediately mail a certified copy of the petition and any information relevant to the petition to the department of local government finance. Within a reasonable period of time, the department of local government finance shall fix a date for a hearing on the petition. The hearing shall be held in the county to which the equalization order has been directed. At least three (3) days before the date fixed for the hearing, the department of local government finance shall give notice of the hearing by mail to the township **assessor (if any)** and **the** county ~~assessors~~ **assessor** whose ~~assessments are~~ **assessment is** affected by the order and to the first ten (10) taxpayers whose names appear on the petition for review at the addresses listed by those taxpayers on the petition. In addition, the department of local government finance shall give the notice, if any, required under section 9(a) of this chapter.

(b) After the hearing required by subsection (a), the department of local government finance may affirm, modify, or set aside its equalization order. The department shall certify its action with respect to the order to the county auditor. The county auditor shall immediately make any changes in the assessed values required by the action of the department of local government finance.

(c) A person whose name appears on the petition for review may petition for judicial review of the final determination of the department of local government finance under subsection (b). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (b).

SECTION 136. IC 6-1.1-14-9 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 9. (a) If a hearing is required under section 4 or section 8 of this chapter, the department of local government finance shall give notice to the taxpayers of each county for which the department is to consider an increase in the assessments. The notice shall state the time, place, and object of the public hearing on the assessments. The department of local government finance shall give the notice in the manner prescribed in subsection (c).

(b) If an equalization order is issued under section 5 of this chapter, the department of local government finance shall give notice of the order to the taxpayers of each county to which the order is directed. The department of local government finance shall give the notice in the manner provided in subsection (c). The notice required by this subsection is in lieu of the notices required by ~~IC 6-1.1-3-13~~ **IC 6-1.1-3-20** or IC 6-1.1-4-22.

(c) A notice required by this section shall be published once in:

(1) two (2) newspapers of general circulation published in the county; or

(2) one (1) newspaper of general circulation published in the county if two (2) newspapers of general circulation are not published in the county.

If there are no newspapers of general circulation published in the county, the notice shall be given by posting a statement of the time, place, and object of the hearing in the county courthouse at the usual place for posting public notices. The published or posted notice of a hearing shall be given at least ten (10) days before the time fixed for the hearing.

SECTION 137. IC 6-1.1-15-1, AS AMENDED BY P.L.1-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A taxpayer may obtain a review by the county board of a county or township official's action with respect to **either or both of the following:**

(1) The assessment of the taxpayer's tangible property. ~~if the official's action requires the giving of notice to the taxpayer:~~

(2) A deduction for which a review under this section is authorized by any of the following:

(A) IC 6-1.1-12-25.5.

(B) IC 6-1.1-12-28.5.

(C) IC 6-1.1-12-35.5.

(D) IC 6-1.1-12.1-5.

(E) IC 6-1.1-12.1-5.3.

(F) IC 6-1.1-12.1-5.4.

(b) At the time that notice **of an action referred to in subsection (a)** is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for a review under this section, including a **preliminary informal** meeting under ~~subsection (h)~~ **subsection (h)(2)** with the county or township official referred to in this subsection; and

(2) the procedures the taxpayer must follow in order to obtain a review under this section.

~~(b)~~ **(c)** In order to obtain a review of an assessment **or deduction** effective for the assessment date to which the notice referred to in ~~subsection (a)~~ **subsection (b)** applies, the taxpayer must file a notice in writing with the county or township official referred to in subsection (a) not later than forty-five (45) days after the date of the notice referred to in ~~subsection (a).~~ **subsection (b).**

~~(c)~~ **(d)** A taxpayer may obtain a review by the county board of the assessment of the taxpayer's tangible property effective for an assessment date for which a notice of assessment is not given as described in ~~subsection (a).~~ **subsection (b).** To obtain the review, the taxpayer must file a notice in writing with the township assessor, ~~of the township in which the property is subject to assessment.~~ **or the county assessor if the township is not served by a township assessor.** The right of a taxpayer to obtain a review under this subsection for an assessment date for which a notice of assessment is not given does not relieve an assessing official of the duty to provide the taxpayer with the notice of assessment as otherwise required by this article. For an assessment date in a year before 2009, the notice must be filed on or before May 10 of the year. For an assessment date in a year after 2008, the notice must be filed not later than the later of:

(1) May 10 of the year; or

(2) forty-five (45) days after the date of the statement mailed by the county auditor under IC 6-1.1-17-3(b).

~~(d)~~ **(e)** A change in an assessment made as a result of a notice for review filed by a taxpayer under ~~subsection (c)~~ **subsection (d)** after the time prescribed in ~~subsection (c)~~ **subsection (d)** becomes effective for the next assessment date. A change in an assessment made as a result of a notice for review filed by a taxpayer under ~~subsection (b) or (c)~~ **subsection (c) or (d)** remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed under this article.

~~(e)~~ **(f)** The written notice filed by a taxpayer under ~~subsection (b) or (c)~~ **subsection (c) or (d)** must include the following information:

(1) The name of the taxpayer.

(2) The address and parcel or key number of the property.

(3) The address and telephone number of the taxpayer.

(g) The filing of a notice under subsection (c) or (d):

(1) initiates a review under this section; and

(2) constitutes a request by the taxpayer for a preliminary informal meeting with the official referred to in subsection (a).

~~(f)~~ **(h)** A county or township official who receives a notice for review filed by a taxpayer under ~~subsection (b) or (c)~~ **subsection (c) or (d)** shall:

(1) immediately forward the notice to the county board; **and**

(2) attempt to hold a preliminary informal meeting with the taxpayer to resolve as many issues as possible by:

(A) discussing the specifics of the taxpayer's assessment or deduction;

(B) reviewing the taxpayer's property record card;

(C) explaining to the taxpayer how the assessment or deduction was determined;

(D) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or deduction;

(E) noting and considering objections of the taxpayer;

(F) considering all errors alleged by the taxpayer; and

(G) otherwise educating the taxpayer about:

(i) the taxpayer's assessment or deduction;

(ii) the assessment or deduction process; and

(iii) the assessment or deduction appeal process.

(i) Not later than ten (10) days after the informal preliminary meeting, the official referred to in subsection (a) shall forward to the county auditor and the county board the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The form must indicate the following:

(1) If the taxpayer and the official agree on the resolution of all assessment or deduction issues in the review, a statement of:

(A) those issues; and

(B) the assessed value of the tangible property or the amount of the deduction that results from the resolution of those issues in the manner agreed to by the taxpayer and the

official.

(2) If the taxpayer and the official do not agree on the resolution of all assessment or deduction issues in the review:

(A) a statement of those issues; and

(B) the identification of:

(i) the issues on which the taxpayer and the official agree; and

(ii) the issues on which the taxpayer and the official disagree.

(j) If the county board receives a form referred to in subsection (i)(1) before the hearing scheduled under subsection (k):

(1) the county board shall cancel the hearing;

(2) the county official referred to in subsection (a) shall give notice to the taxpayer, the county board, the county assessor, and the county auditor of the assessment or deduction in the amount referred to in subsection (i)(1)(B); and

(3) if the matter in issue is the assessment of tangible property, the county board may reserve the right to change the assessment under IC 6-1.1-13.

~~(g)~~ **(k) If:**

(1) subsection (i)(2) applies; or

(2) the county board does not receive a form referred to in subsection (i) not later than one hundred twenty (120) days after the date of the notice for review filed by the taxpayer under subsection (c) or (d);

the county board shall hold a hearing on a review under this subsection not later than one hundred eighty (180) days after the date of ~~the~~ **that** notice. ~~for review filed by the taxpayer under subsection (b) or (c).~~ The county board shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. The taxpayer and the county or township official with whom the taxpayer filed the notice for review are parties to the proceeding before the county board. **The county assessor is recused from any action the county board takes with respect to an assessment determination by the county assessor.**

~~(h) Before the county board holds the hearing required under subsection (g), the taxpayer may request a meeting by filing a written request with the county or township official with whom the taxpayer filed the notice for review to:~~

~~(1) attempt to resolve as many issues under review as possible; and~~

~~(2) seek a joint recommendation for settlement of some or all of the issues under review.~~

~~A county or township official who receives a meeting request under this subsection before the county board hearing shall meet with the taxpayer. The taxpayer and the county or township official shall present a joint recommendation reached under this subsection to the county board at the hearing required under subsection (g). The county board may adopt or reject the recommendation in whole or in part.~~

~~(i)~~ **(l)** At the hearing required under ~~subsection (g).~~ **subsection (k):**

(1) the taxpayer may present the taxpayer's reasons for disagreement with the assessment **or deduction;** and

(2) the county or township official with whom the taxpayer filed the notice for review must present:

(A) the basis for the assessment **or deduction** decision; and

(B) the reasons the taxpayer's contentions should be denied.

~~(j)~~ **(m) The official referred to in subsection (a) may not require the taxpayer to provide documentary evidence at the preliminary informal meeting under subsection (h).** The county board may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under ~~subsection (g).~~ **subsection (k).** If the action for which a taxpayer seeks review under this section is the assessment of tangible property, the taxpayer is not required to have an appraisal of the property in order to do the following:

(1) Initiate the review.

(2) Prosecute the review.

~~(k) Regardless of whether the county board adopts a recommendation under subsection (h),~~ **(n)** The county board shall prepare a written decision resolving all of the issues under review. The county board shall, by mail, give notice of its determination not later than one hundred twenty (120) days after the hearing under ~~subsection (g)~~ **subsection (k)** to the taxpayer, **the official referred to in subsection (a),** the county assessor, and the ~~township assessor.~~ **county auditor.**

~~(l)~~ **(o)** If the maximum time elapses:

(1) under ~~subsection (g)~~ **subsection (k)** for the county board to hold a hearing; or

(2) under ~~subsection (k)~~ **subsection (n)** for the county board to give notice of its determination;

the taxpayer may initiate a proceeding for review before the Indiana board

by taking the action required by section 3 of this chapter at any time after the maximum time elapses.

SECTION 138. IC 6-1.1-15-9, AS AMENDED BY P.L.219-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) If the assessment or exemption of tangible property is corrected by the department of local government finance or the county board under section 8 of this chapter, the owner of the property has a right to appeal the final determination of the corrected assessment or exemption to the Indiana board. The county assessor also has a right to appeal the final determination of the reassessment or exemption by the department of local government finance or the county board, but only upon request by the county assessor, the ~~elected~~ township assessor **(if any),** or an affected taxing unit. If the appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.

(b) An appeal under this section must be initiated in the manner prescribed in section 3 of this chapter or IC 6-1.5-5.

SECTION 139. IC 6-1.1-15-10, AS AMENDED BY P.L.219-2007, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition for review to any board or a proceeding for judicial review in the tax court regarding an assessment or increase in assessment is pending, the taxes resulting from the assessment or increase in assessment are, notwithstanding the provisions of IC 6-1.1-22-9, not due until after the petition for review, or the proceeding for judicial review, is finally adjudicated and the assessment or increase in assessment is finally determined. However, even though a petition for review or a proceeding for judicial review is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is enjoined under IC 33-26-6-2 pending a final determination in the proceeding for judicial review. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

(1) the assessed value reported by the taxpayer on the taxpayer's personal property return if a personal property assessment, or an increase in such an assessment, is involved; or

(2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the proceeding for judicial review is not finally determined by the last installment date for the taxes, the taxpayer,

upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property that is described in IC 6-1.1-17-0.5(b). When establishing rates and calculating state school support, the department of local government finance shall exclude from assessed value in the county the assessed value of property kept separate on the tax duplicate by the county auditor under ~~IC 6-1.1-17-0.5(b).~~ **IC 6-1.1-17-0.5.**

SECTION 140. IC 6-1.1-15-12, AS AMENDED BY P.L.219-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) Subject to the limitations contained in subsections (c) and (d), a county auditor shall correct errors which are discovered in the tax duplicate for any one (1) or more of the following reasons:

(1) The description of the real property was in error.

(2) The assessment was against the wrong person.

(3) Taxes on the same property were charged more than one (1) time in the same year.

(4) There was a mathematical error in computing the taxes or penalties on the taxes.

(5) There was an error in carrying delinquent taxes forward from one (1) tax duplicate to another.

(6) The taxes, as a matter of law, were illegal.

(7) There was a mathematical error in computing an assessment.

(8) Through an error of omission by any state or county officer, the taxpayer was not given credit for an exemption or deduction permitted by law.

(b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when the county auditor finds that the error exists.

(c) If the tax is based on an assessment made or determined by the department of local government finance, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the department of local government finance or ordered by the tax court.

(d) If the tax is not based on an assessment made or determined by the department of local government finance, the county auditor shall correct

an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

(1) The township assessor **(if any).**

(2) The county auditor.

(3) The county assessor.

If two (2) of these officials do not approve such a correction, the county auditor shall refer the matter to the county board for determination. The county board shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county board to the Indiana board for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The Indiana board shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor **(if any).**

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

(g) A taxpayer that files a personal property tax return under IC 6-1.1-3 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's personal property tax return. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's personal property tax return, the taxpayer must instead file an amended personal property tax return under IC 6-1.1-3-7.5.

(h) A taxpayer that files a statement under IC 6-1.1-8-19 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead initiate an objection under IC 6-1.1-8-28 or an appeal under IC 6-1.1-8-30.

(i) A taxpayer that files a statement under IC 6-1.1-8-23 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead file an amended statement not more than six (6) months after the due date of the statement.

SECTION 141. IC 6-1.1-15-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 12.5. (a) If a township**

assessor determines that the township assessor has made an error concerning:

(1) the assessed valuation of property;

(2) the name of a taxpayer; or

(3) the description of property;

in an assessment, the township assessor shall on the township assessor's own initiative correct the error. However, the township assessor may not increase an assessment under this section. The township assessor shall correct the error in the assessment without requiring the taxpayer to file a notice with the county board requesting a review of the township assessor's original assessment.

(b) If a township assessor corrects an error under this section, the township assessor shall give notice of the correction to the taxpayer, the county auditor, and the county board.

(c) Subject to subsection (d), if a correction under this section results in a reduction of the amount of an assessment of a taxpayer's property, the taxpayer is entitled to a credit on the taxpayer's next tax installment equal to the amount of any overpayment of tax that resulted from the incorrect assessment.

(d) If the amount of the overpayment of tax exceeds the taxpayer's next tax installment, the taxpayer is entitled to:

(1) a credit in the full amount of the next tax installment; and

(2) credits on succeeding tax installments until the taxpayer has received total credits equal to the amount of the overpayment.

SECTION 142. IC 6-1.1-15-14, AS AMENDED BY P.L.219-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. In any assessment review, the assessing official ~~the county assessor, and the members of a county board~~ shall:

(1) use the department of local government finance's rules in effect; and

(2) consider the conditions and circumstances of the property as they existed;

on the original assessment date of the property under review.

SECTION 143. IC 6-1.1-15-16, AS AMENDED BY P.L.219-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. Notwithstanding any provision in the 2002 Real Property Assessment Manual and Real Property Assessment Guidelines for 2002-Version A, incorporated by reference in 50 IAC 2.3-1-2, a county board or the Indiana board shall consider all evidence relevant to the assessment of real property regardless of whether the evidence was

submitted to the township assessor **(if any) or county assessor** before the assessment of the property.

SECTION 144. IC 6-1.1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in section 2 of this chapter, an assessing official ~~county assessor,~~ or county property tax assessment board of appeals may not change the assessed value claimed by a taxpayer on a personal property return unless the assessing official ~~county assessor,~~ or county property tax assessment board of appeals takes the action and gives the notice required by IC 6-1.1-3-20 within the following ~~time~~ periods:

(1) A township ~~or county assessing official~~ **assessor (if any)** must make a change in the assessed value and give the notice of the change on or before the ~~latter~~ **later** of:

(A) September 15 of the year for which the assessment is made; or

(B) four (4) months from the date the personal property return is filed if the return is filed after May 15 of the year for which the assessment is made.

(2) A county assessor or county property tax assessment board of appeals must make a change in the assessed value, including the final determination by the board of an assessment changed by ~~a township or county~~ **an** assessing official, ~~or county property tax assessment board of appeals,~~ and give the notice of the change on or before the ~~latter~~ **later** of:

(A) October 30 of the year for which the assessment is made; or

(B) five (5) months from the date the personal property return is filed if the return is filed after May 15 of the year for which the assessment is made.

(3) The department of local government finance must make a preliminary change in the assessed value and give the notice of the change on or before the ~~latter~~ **later** of:

(A) October 1 of the year immediately following the year for which the assessment is made; or

(B) sixteen (16) months from the date the personal property return is filed if the return is filed after May 15 of the year for which the assessment is made.

(b) Except as provided in section 2 of this chapter, if an assessing official ~~a county assessor,~~ or a county property tax assessment board of appeals fails to change an assessment and give notice of the change within the time prescribed by this section, the assessed value claimed by the

taxpayer on the personal property return is final.

(c) This section does not limit the authority of a county auditor to correct errors in a tax duplicate under IC 6-1.1-15-12.

(d) This section does not apply if the taxpayer:

(1) fails to file a personal property return which substantially complies with ~~the provisions of~~ this article and the regulations of the department of local government finance; or

(2) files a fraudulent personal property return with the intent to evade the payment of property taxes.

(e) A taxpayer may appeal a preliminary determination of the department of local government finance under subsection (a)(3) to the Indiana board. An appeal under this subdivision shall be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8. A preliminary determination that is not appealed under this subsection is a final unappealable order of the department of local government finance.

SECTION 145. IC 6-1.1-16-2, AS AMENDED BY P.L.219-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) If a county property tax assessment board of appeals fails to change an assessed value claimed by a taxpayer on a personal property return and give notice of the change within the time prescribed in section 1(a)(2) of this chapter, the township assessor, or the county assessor **if there is no township assessor for the township,** may file a petition for review of the assessment by the Indiana board. The township ~~assessor~~ or ~~the~~ county assessor must file the petition for review in the manner provided in IC 6-1.1-15-3(d). The ~~time~~ period for filing the petition begins to run on the last day that the county board is permitted to act on the assessment under section 1(a)(2) of this chapter as though the board acted and gave notice of its action on that day.

(b) Notwithstanding section 1(a)(3) of this chapter, the department of local government finance shall reassess tangible property when an appealed assessment of the property is remanded to the board under IC 6-1.1-15-8.

SECTION 146. IC 6-1.1-17-1, AS AMENDED BY P.L.154-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

(1) information concerning the assessed valuation in the political

subdivision for the next calendar year;

(2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;

(3) the current assessed valuation as shown on the abstract of charges;

(4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance;

(5) the amount of the political subdivision's assessed valuation reduction determined under section 0.5(d) of this chapter;

(6) for counties with taxing units that cross into or intersect with other counties, the assessed valuation as shown on the most current abstract of property; and

~~(6)~~ **(7)** any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

(b) The estimate of taxes to be distributed shall be based on:

(1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and

(2) any other information at the disposal of the county auditor which might affect the estimate.

(c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

(d) Subject to subsection (e) and except as provided in subsection (f), after the county auditor sends a certified statement under subsection (a) or an amended certified statement under this subsection with respect to a political subdivision and before the department of local government finance certifies its action with respect to the political subdivision under section 16(f) of this chapter, the county auditor may amend the information concerning assessed valuation included in the earlier certified statement. The county auditor shall send a certified statement amended under this subsection, under the seal of the board of county commissioners, to:

(1) the fiscal officer of each political subdivision affected by the amendment; and

(2) the department of local government finance.

(e) Except as provided in subsection (g), before the county auditor makes an amendment under subsection (d), the county auditor must provide an opportunity for public comment on the proposed amendment at a public hearing. The county auditor must give notice of the hearing under IC 5-3-1. If the county auditor makes the amendment as a result of information provided to the county auditor by an assessor, the county auditor shall give notice of the public hearing to the assessor.

(f) Subsection (d) does not apply to an adjustment of assessed valuation under IC 36-7-15.1-26.9(d).

(g) The county auditor is not required to hold a public hearing under subsection (e) if:

(1) the amendment under subsection (d) is proposed to correct a mathematical error made in the determination of the amount of assessed valuation included in the earlier certified statement;

(2) the amendment under subsection (d) is proposed to add to the amount of assessed valuation included in the earlier certified statement assessed valuation of omitted property discovered after the county auditor sent the earlier certified statement; or

(3) the county auditor determines that the amendment under subsection (d) will not result in an increase in the tax rate or tax rates of the political subdivision.

SECTION 147. IC 6-1.1-17-3, AS AMENDED BY HEA 1137-2008, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under

subsection (b) to the county auditor on the schedule determined by the department of local government finance.

(b) Beginning in ~~2009,~~ **2010,** before ~~August 10~~ **October 1** of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(c) **(before July 1, 2008) or IC 6-1.1-15-1 (after June 30, 2008);**

(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:

(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);

(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;

(C) any credits that apply in the determination of the tax liability; and

(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of:

(i) the county board of tax adjustment; ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008);~~ or

(ii) the department of local government finance;

(3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by:

(i) the county board of tax adjustment; ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008);~~ or

(ii) the department of local government finance;

it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes

for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing;

statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

(f) **This subsection expires January 1, 2009.** A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 148. IC 6-1.1-17-3.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) This section does not apply to civil taxing units located in a county in which a county board of tax adjustment reviews budgets, tax rates, and tax levies. This section does not apply to a civil taxing unit that has its proposed budget and proposed property tax levy approved under IC 6-1.1-17-20 or IC 36-3-6-9.**

(b) This section applies to a civil taxing unit other than a county. If a civil taxing unit will impose property taxes due and payable in the ensuing calendar year, the civil taxing unit shall file with the fiscal body of the county in which the civil taxing unit is located:

(1) a statement of the proposed or estimated tax rate and tax levy for the civil taxing unit for the ensuing budget year; and

(2) a copy of the civil taxing unit's proposed budget for the ensuing budget year.

(c) In the case of a civil taxing unit located in more than one (1) county, the civil taxing unit shall file the information under subsection (b) with the fiscal body of the county in which the greatest part of the civil taxing unit's net assessed valuation is located.

(d) A civil taxing unit must file the information under subsection (b) at least fifteen (15) days before the civil taxing unit fixes its tax rate and tax levy and adopts its budget under this chapter.

(e) A county fiscal body shall:

(1) review any proposed or estimated tax rate or tax levy or proposed budget filed by a civil taxing unit with the county fiscal body under this section; and

(2) issue a nonbinding recommendation to a civil taxing unit regarding the civil taxing unit's proposed or estimated tax rate or tax levy or proposed budget.

(f) The recommendation under subsection (e) must include a comparison of any increase in the civil taxing unit's budget or tax levy to:

(1) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and

(2) increases in the budgets and tax levies of other civil taxing units in the county.

(g) The department of local government finance must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and

increases in county nonfarm personal income.

SECTION 149. IC 6-1.1-17-5, AS AMENDED BY HEA 1137-2008, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

(1) The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) **for budget years beginning before July 1, 2010,** September 30 if a resolution adopted under section 5.6(d) of this chapter is in effect.

(2) The proper officers of all other political subdivisions, not later than September 30.

(3) The governing body of each school corporation (including a school corporation described in subdivision (1)), not later than the time required under section 5.6(b) of this chapter for budget years beginning after June 30, 2010.

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting after September 20 of the county board of tax adjustment ~~(before January 1, 2009) or the county~~

~~board of tax and capital projects review (after December 31, 2008)~~ held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ at the board's first meeting under IC 6-1.1-29-4 after September 20 of that year.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 150. IC 6-1.1-17-5.6, AS AMENDED BY HEA 1137-2008, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) **For budget years beginning before July 1, 2010,** this section applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000). **For budget years beginning after June 30, 2010, this section applies to all school corporations. Beginning in 2010, each school corporation shall adopt a budget under this section that applies from July 1 of the year through June 30 of the following year. In the initial budget adopted by a school corporation in 2010 under this section, the first six (6) months of that initial budget must be consistent with the last six (6) months of the budget adopted by the school corporation for calendar year 2010.**

(b) Before February 1 of each year, the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers. However, if

a resolution adopted under subsection (d) is in effect, the officers shall meet to fix the budget for the ensuing budget year before September 30.

(c) Each year, at least two (2) days before the first meeting after September 20 of the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ held under IC 6-1.1-29-4, the school corporation shall file with the county auditor:

(1) a statement of the tax rate and tax levy fixed by the school corporation for the ensuing budget year;

(2) two (2) copies of the budget adopted by the school corporation for the ensuing budget year; and

(3) any written notification from the department of local government finance under section 16(i) of this chapter that specifies a proposed revision, reduction, or increase in the budget adopted by the school corporation for the ensuing budget year.

Each year the county auditor shall present these items to the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ at the board's first meeting after September 20 of that year.

(d) **This subsection does not apply to budget years after June 30, 2010.** The governing body of the school corporation may adopt a resolution to cease using a school year budget year and return to using a calendar year budget year. A resolution adopted under this subsection must be adopted after January 1 and before July 1. The school corporation's initial calendar year budget year following the adoption of a resolution under this subsection begins on January 1 of the year following the year the resolution is adopted. The first six (6) months of the initial calendar year budget for the school corporation must be consistent with the last six (6) months of the final school year budget fixed by the department of local government finance before the adoption of a resolution under this subsection. **Notwithstanding any resolution adopted under this subsection, beginning in 2010, each school corporation shall adopt a budget under this section that applies from July 1 of the year through June 30 of the following year.**

(e) A resolution adopted under subsection (d) may be rescinded by a subsequent resolution adopted by the governing body. If the governing body of the school corporation rescinds a resolution adopted under subsection (d) and returns to a school year budget year, the school corporation's initial school year budget year begins on July 1 following the adoption of the rescinding resolution and ends on June 30 of the following

year. The first six (6) months of the initial school year budget for the school corporation must be consistent with the last six (6) months of the last calendar year budget fixed by the department of local government finance before the adoption of a rescinding resolution under this subsection.

SECTION 151. IC 6-1.1-17-6, AS AMENDED BY P.L.224-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall review the budget, tax rate, and tax levy of each political subdivision filed with the county auditor under section 5 or 5.6 of this chapter. The board shall revise or reduce, but not increase, any budget, tax rate, or tax levy in order:

(1) to limit the tax rate to the maximum amount permitted under IC 6-1.1-18; and

(2) to limit the budget to the amount of revenue to be available in the ensuing budget year for the political subdivision.

(b) The county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall make a revision or reduction in a political subdivision's budget only with respect to the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.

(c) When the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ makes a revision or reduction in a budget, tax rate, or tax levy, it shall file with the county auditor a written order which indicates the action taken. If the board reduces the budget, it shall also indicate the reason for the reduction in the order. The chairman of the county board shall sign the order.

SECTION 152. IC 6-1.1-17-7, AS AMENDED BY P.L.224-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If the boundaries of a political subdivision cross one (1) or more county lines, the budget, tax levy, and tax rate fixed by the political subdivision shall be filed with the county auditor of each affected county in the manner prescribed in section 5 or 5.6 of this chapter. The board of tax adjustment of the county which contains the largest portion of the value of property taxable by the political subdivision, as determined from the abstracts of taxable values last filed with the auditor of state, has jurisdiction over the budget, tax rate, and tax levy to the same

extent as if the property taxable by the political subdivision were wholly within the county. The secretary of the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall notify the county auditor of each affected county of the action of the board. Appeals from actions of the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ may be initiated in any affected county.

SECTION 153. IC 6-1.1-17-8, AS AMENDED BY P.L.224-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ determines that the maximum aggregate tax rate permitted within a political subdivision under IC 6-1.1-18 is inadequate, the county board shall, subject to the limitations prescribed in IC 20-45-4 **(before January 1, 2009),** file its written recommendations in duplicate with the county auditor. The board shall include with its recommendations:

(1) an analysis of the aggregate tax rate within the political subdivision;

(2) a recommended breakdown of the aggregate tax rate among the political subdivisions whose tax rates compose the aggregate tax rate within the political subdivision; and

(3) any other information that the county board considers relevant to the matter.

(b) The county auditor shall forward one (1) copy of the county board's recommendations to the department of local government finance and shall retain the other copy in the county auditor's office. The department of local government finance shall, in the manner prescribed in section 16 of this chapter, review the budgets by fund, tax rates, and tax levies of the political subdivisions described in subsection (a)(2).

SECTION 154. IC 6-1.1-17-9, AS AMENDED BY P.L.224-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall complete the duties assigned to it under this chapter on or before October 1st of each year, except that in a consolidated city and county and in a county containing a second class city, the duties of this board need not be completed until November 1 of each year.

(b) If the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ fails to complete the duties assigned to it within the time prescribed in this section or to reduce aggregate tax rates so that they do not exceed the maximum rates permitted under IC 6-1.1-18, the county auditor shall calculate and fix the tax rate within each political subdivision of the county so that the maximum rate permitted under IC 6-1.1-18 is not exceeded.

(c) When the county auditor calculates and fixes tax rates, the county auditor shall send a certificate notice of those rates to each political subdivision of the county. The county auditor shall send these notices within five (5) days after publication of the notice required by section 12 of this chapter.

(d) When the county auditor calculates and fixes tax rates, that action shall be treated as if it were the action of the county board of tax adjustment. ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008).~~

SECTION 155. IC 6-1.1-17-10, AS AMENDED BY P.L.224-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. When the aggregate tax rate within a political subdivision, as approved or modified by the county board of tax adjustment (before January 1, 2009), ~~or the county board of tax and capital projects review (after December 31, 2008),~~ exceeds the maximum aggregate tax rate prescribed in IC 6-1.1-18-3(a), the county auditor shall certify the budgets, tax rates, and tax levies of the political subdivisions whose tax rates compose the aggregate tax rate within the political subdivision, as approved or modified by the county board, to the department of local government finance for final review. For purposes of this section, the maximum aggregate tax rate limit exceptions provided in IC 6-1.1-18-3(b) do not apply.

SECTION 156. IC 6-1.1-17-11, AS AMENDED BY P.L.224-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. A budget, tax rate, or tax levy of a political subdivision, as approved or modified by the county board of tax adjustment, ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008),~~ is final unless:

(1) action is taken by the county auditor in the manner provided under section 9 of this chapter;

(2) the action of the county board is subject to review by the department of local government finance under section 8 or 10 of this

chapter; or

(3) an appeal to the department of local government finance is initiated with respect to the budget, tax rate, or tax levy.

SECTION 157. IC 6-1.1-17-12, AS AMENDED BY P.L.224-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. As soon as the budgets, tax rates, and tax levies are approved or modified by the county board of tax adjustment, ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008),~~ the county auditor shall within fifteen (15) days prepare a notice of the tax rates to be charged on each one hundred dollars ($100) of assessed valuation for the various funds in each taxing district. The notice shall also inform the taxpayers of the manner in which they may initiate an appeal of the county board's action. The county auditor shall post the notice at the county courthouse and publish it in two (2) newspapers which represent different political parties and which have a general circulation in the county.

SECTION 158. IC 6-1.1-17-14, AS AMENDED BY P.L.224-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The county auditor shall initiate an appeal to the department of local government finance if the county fiscal body **or** the county board of tax adjustment ~~(before January 1, 2009), or the county board of tax and capital projects review (after December 31, 2008)~~ reduces:

(1) a township assistance tax rate below the rate necessary to meet the estimated cost of township assistance;

(2) a family and children's fund tax rate below the rate necessary to collect the levy recommended by the department of child services, **for property taxes first due and payable before January 1, 2009;** or

(3) a children's psychiatric residential treatment services fund tax rate below the rate necessary to collect the levy recommended by the department of child services, **for property taxes first due and payable before January 1, 2009.**

SECTION 159. IC 6-1.1-17-15, AS AMENDED BY P.L.224-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A political subdivision may appeal to the department of local government finance for an increase in its tax rate or tax levy as fixed by the county board of tax adjustment ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ or the county auditor. To initiate the appeal, the political

subdivision must file a statement with the department of local government finance not later than ten (10) days after publication of the notice required by section 12 of this chapter. The legislative body of the political subdivision must authorize the filing of the statement by adopting a resolution. The resolution must be attached to the statement of objections, and the statement must be signed by the following officers:

(1) In the case of counties, by the board of county commissioners and by the president of the county council.

(2) In the case of all other political subdivisions, by the highest executive officer and by the presiding officer of the legislative body.

SECTION 160. IC 6-1.1-17-16, AS AMENDED BY P.L.1-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget by fund, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget by fund, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsections (j) and (k), before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets by fund, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets by fund, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), ~~IC 20-45,~~ IC 20-46, or

IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. However, if the department of local government finance determines that IC 5-3-1-2.3(b) applies to the tax rate, tax levy, or budget of the political subdivision, the maximum amount by which the department may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount that was incorrectly published or omitted in the notice described in IC 5-3-1-2.3(b). The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has two (2) weeks from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office. The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error. The department of local government finance shall consider the adjustments as specified in the political subdivision's response if the response is provided as required by this subsection and shall deliver a final decision to the political subdivision.

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

(1) no bonds of the building corporation are outstanding; or

(2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

(1) the county auditor;

(2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;

(3) the taxpayer that initiated an appeal under section 13 of this chapter, or, if the appeal was initiated by multiple taxpayers, the first ten (10) taxpayers whose names appear on the statement filed to initiate the appeal; and

(4) a taxpayer that owns property that represents at least ten percent

(10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

(1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.

(2) If the department:

(A) acts under an appeal initiated by one (1) or more taxpayers under section 13 of this chapter; or

(B) fails to act on the appeal before the department certifies its action under subsection (f);

a taxpayer who signed the statement filed to initiate the appeal.

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase is:

(1) requested in writing by the officers of the political subdivision;

(2) either:

(A) based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget by fund of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget by fund. A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance may hold a hearing under subsection (c) only if the notice required in section 12 of this chapter is published at least ten (10) days before the date of the hearing.

SECTION 161. IC 6-1.1-17-17, AS AMENDED BY P.L.2-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 17. Subject to the limitations contained in ~~IC 6-1.1-19,~~ IC 6-1.1-18.5 ~~IC 20-45,~~ and IC 20-46, the department of local government finance may at any time increase the tax rate and tax levy of a political subdivision for the following reasons:

(1) To pay the principal or interest upon a funding, refunding, or judgment funding obligation of a political subdivision.

(2) To pay the interest or principal upon an outstanding obligation of the political subdivision.

(3) To pay a judgment rendered against the political subdivision.

(4) To pay lease rentals that have become an obligation of the political subdivision under IC 20-47-2 or IC 20-47-3.

SECTION 162. IC 6-1.1-17-19, AS AMENDED BY P.L.2-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. If there is a conflict between the provisions of this chapter and the provisions of ~~IC 6-1.1-19,~~ IC 6-1.1-18.5 ~~IC 20-45,~~ or IC 20-46, the provisions of ~~IC 6-1.1-19,~~ IC 6-1.1-18.5 ~~IC 20-45,~~ and IC 20-46 control with respect to the adoption of, review of, and limitations on budgets, tax rates, and tax levies.

SECTION 163. IC 6-1.1-17-20, AS AMENDED BY P.L.1-2006, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) This section applies:

(1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the **percentage increase in the** proposed ~~property tax levy:~~

~~(A)~~ **budget** for the taxing unit ~~(other than a public library)~~ for the ensuing calendar year is more than ~~five percent (5%) greater than the property tax levy for the taxing unit for the current~~ **the result of:**

(A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the ensuing calendar year; ~~or~~ **minus**

~~(B) for the operating budget of a public library for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the operating budget of the public library for the current calendar year.~~

(B) one (1).

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) This subsection does not apply to a public library. If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

The governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) ~~This subsection does not apply to a public library.~~ If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

~~(e) This subsection applies to a public library. The library board of a public library subject to this section shall submit its proposed budget and property tax levy to the fiscal body designated under IC 36-12-14.~~

~~(f) Subject to subsection (g),~~ **(e)** The fiscal body of the city, town, or county (whichever applies) ~~or the fiscal body designated under IC 36-12-14 (in the case of a public library)~~ shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

~~(g) A fiscal body's review under subsection (f) is limited to the proposed operating budget of the public library and the proposed property tax levy for the library's operating budget.~~

SECTION 164. IC 6-1.1-17-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20.5. (a) This section applies to the governing body of a taxing unit unless a majority of the governing body is comprised of officials who are elected to serve on the governing body.**

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the city or town fiscal body.

(d) This subsection applies to a taxing unit not described in subsection (c). The governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body in the county where the taxing unit has the most net assessed valuation.

SECTION 165. IC 6-1.1-18-2, AS AMENDED BY P.L.224-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a) Before January 1, 2009,** the state may not impose a **combined ad valorem property** tax rate on tangible property ~~in excess of thirty-three hundredths of one cent ($0.0033) on each one hundred dollars ($100) of assessed valuation.~~ **that exceeds the sum of the ad valorem property tax rates permitted under IC 4-9.1-1-8, IC 14-23-3-3, and IC 15-1.5-7-3 (before July 1, 2008) and IC 15-13-8-3 (after June 30, 2008, and before January 1, 2009).** The state tax rate is not subject to review by county boards of tax adjustment ~~(before January 1, 2009), county boards of tax and capital projects review (after December 31, 2008),~~ or county auditors.

(b) Except as permitted under IC 4-9.1-1-8 to repay notes issued to meet casual deficits in state revenue, the state may not impose an ad valorem property tax rate on tangible property after December 31, 2008.

(c) This section does not apply to political subdivisions of the state.

SECTION 166. IC 6-1.1-18-3, AS AMENDED BY P.L.224-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), the sum of all tax rates for all political subdivisions imposed on tangible property within a political subdivision may not exceed:

(1) forty-one and sixty-seven hundredths cents ($0.4167) on each one hundred dollars ($100) of assessed valuation in territory outside the corporate limits of a city or town; or

(2) sixty-six and sixty-seven hundredths cents ($0.6667) on each one hundred dollars ($100) of assessed valuation in territory inside the corporate limits of a city or town.

(b) The proper officers of a political subdivision shall fix tax rates which are sufficient to provide funds for the purposes itemized in this subsection. The portion of a tax rate fixed by a political subdivision shall not be considered in computing the tax rate limits prescribed in subsection (a) if that portion is to be used for one (1) of the following purposes:

(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of the political subdivision.

(2) To pay the principal or interest on an outstanding obligation issued by the political subdivision if notice of the sale of the obligation was published before March 9, 1937.

(3) To pay the principal or interest upon:

(A) an obligation issued by the political subdivision to meet an emergency which results from a flood, fire, pestilence, war, or any other major disaster; or

(B) a note issued under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 to enable a city, town, or county to acquire necessary equipment or facilities for municipal or county government.

(4) To pay the principal or interest upon an obligation issued in the manner provided in:

(A) IC 6-1.1-20-3 (before its repeal); ~~or~~

(B) IC 6-1.1-20-3.1 through IC 6-1.1-20-3.2; **or**

(C) IC 6-1.1-20-3.5 through IC 6-1.1-20-3.6.

(5) To pay a judgment rendered against the political subdivision.

(6) **This subdivision expires January 1, 2009.** To meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1, **before its repeal).**

(7) **This subdivision expires January 1, 2009.** To meet the requirements of the county hospital care for the indigent fund.

(8) **This subdivision expires January 1, 2009.** To meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1, **before its repeal).**

(c) Except as otherwise provided in IC 6-1.1-19 **(before January 1,**

2009), IC 6-1.1-18.5, IC 20-45 **(before January 1, 2009),** or IC 20-46, a county board of tax adjustment, ~~(before January 1, 2009), a county board of tax and capital projects review (after December 31, 2008),~~ a county auditor, or the department of local government finance may review the portion of a tax rate described in subsection (b) only to determine if it exceeds the portion actually needed to provide for one (1) of the purposes itemized in that subsection.

SECTION 167. IC 6-1.1-18-11, AS AMENDED BY P.L.2-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. If there is a conflict between the provisions of this chapter and the provisions of ~~IC 6-1.1-19,~~ IC 6-1.1-18.5 ~~IC 20-45,~~ or IC 20-46, the provisions of ~~IC 6-1.1-19,~~ IC 6-1.1-18.5 ~~IC 20-45,~~ and IC 20-46 control with respect to the adoption of, review of, and limitations on budgets, tax rates, and tax levies.

SECTION 168. IC 6-1.1-18-12, AS AMENDED BY SEA 190-2008, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted each year to account for the change in assessed value of real property that results from:

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or

(2) a general reassessment of real property under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

(1) IC 8-10-5-17;

(2) IC 8-22-3-11;

(3) IC 8-22-3-25;

(4) IC 12-29-1-1;

(5) IC 12-29-1-2;

(6) IC 12-29-1-3;

(7) IC 12-29-3-6;

(8) IC 13-21-3-12;

(9) IC 13-21-3-15;

(10) IC 14-27-6-30;
(11) IC 14-33-7-3;
(12) IC 14-33-21-5;
(13) IC 15-14-7-4;
(14) IC 15-14-9-1;
(15) IC 15-14-9-2;
(16) IC 16-20-2-18;
(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-22-14;
(20) IC 16-23-1-29;
(21) IC 16-23-3-6;
(22) IC 16-23-4-2;
(23) IC 16-23-5-6;
(24) IC 16-23-7-2;
(25) IC 16-23-8-2;
(26) IC 16-23-9-2;
(27) IC 16-41-15-5;
(28) IC 16-41-33-4;
(29) IC 20-46-2-3 **(before its repeal on January 1, 2009);**
(30) IC 20-46-6-5;
(31) IC 20-49-2-10;
(32) IC 36-1-19-1;
(33) IC 23-14-66-2;
(34) IC 23-14-67-3;
(35) IC 36-7-13-4;
(36) IC 36-7-14-28;
(37) IC 36-7-15.1-16;
(38) IC 36-8-19-8.5;
(39) IC 36-9-6.1-2;
(40) IC 36-9-17.5-4;
(41) IC 36-9-27-73;
(42) IC 36-9-29-31;
(43) IC 36-9-29.1-15;
(44) IC 36-10-6-2;
(45) IC 36-10-7-7;
(46) IC 36-10-7-8;
(47) IC 36-10-7.5-19;
(48) IC 36-10-13-5;
(49) IC 36-10-13-7;

(50) IC 36-10-14-4;
(51) IC 36-12-7-7;
(52) IC 36-12-7-8;
(53) IC 36-12-12-10; and
(54) any statute enacted after December 31, 2003, that:
(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and
(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:
(A) Zero (0).
(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage

increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 169. IC 6-1.1-18.5-3, AS AMENDED BY P.L.224-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) ~~Except as otherwise provided in this chapter and IC 6-3.5-8-12,~~ A civil taxing unit that is treated as not being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, that was used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of subsection (b) for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth (0.0001)), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

(b) Except as otherwise provided in this chapter, ~~and IC 6-3.5-8-12,~~ a civil taxing unit that is treated as being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in

the last STEP of the following STEPS:

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of this subsection for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

STEP EIGHT: Subtract the amount determined under STEP FIVE of subsection (e) from the amount determined under STEP SEVEN of this subsection.

(c) **The amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as applicable, equals the sum of the following:**

(1) If a civil taxing unit in the immediately preceding calendar year provided an area outside its boundaries with services on a contractual basis and in the ensuing calendar year that area has been annexed by the civil taxing unit, ~~the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals~~ the amount paid by the annexed area during the immediately preceding calendar year for services that the civil taxing unit must provide to that area during the ensuing calendar year as a result of the annexation.

(2) If the civil taxing unit has had an excessive levy appeal

approved under section 13(a)(1) of this chapter for the ensuing calendar year, an amount determined by the civil taxing unit for the ensuing calendar year that does not exceed the amount of that excessive levy.

In all other cases, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals zero (0).

(d) This subsection applies only to civil taxing units located in a county having a county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) of one percent (1%) as of January 1 of the ensuing calendar year. For each civil taxing unit, the amount to be added to the amount determined in subsection (e), STEP FOUR, is determined using the following formula:

STEP ONE: Multiply the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year by two percent (2%).

STEP TWO: For the determination year, the amount to be used as the STEP TWO amount is the amount determined in subsection (f) for the civil taxing unit. For each year following the determination year the STEP TWO amount is the lesser of:

(A) the amount determined in STEP ONE; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the civil taxing unit's certified share for the ensuing calendar year minus the greater of:

(i) the civil taxing unit's certified share for the calendar year that immediately precedes the ensuing calendar year; or

(ii) the civil taxing unit's base year certified share.

STEP FOUR: Determine the greater of:

(A) zero (0); or

(B) the amount determined in STEP TWO minus the amount determined in STEP THREE.

Add the amount determined in STEP FOUR to the amount determined in subsection (e), STEP THREE, as provided in subsection (e), STEP FOUR.

(e) For each civil taxing unit, the amount to be subtracted under subsection (b), STEP EIGHT, is determined using the following formula:

STEP ONE: Determine the lesser of the civil taxing unit's base year certified share for the ensuing calendar year, as determined under section 5 of this chapter, or the civil taxing unit's certified share for

the ensuing calendar year.

STEP TWO: Determine the greater of:

(A) zero (0); or

(B) the remainder of:

(i) the amount of federal revenue sharing money that was received by the civil taxing unit in 1985; minus

(ii) the amount of federal revenue sharing money that will be received by the civil taxing unit in the year preceding the ensuing calendar year.

STEP THREE: Determine the lesser of:

(A) the amount determined in STEP TWO; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP FOUR: Add the amount determined in subsection (d), STEP FOUR, to the amount determined in STEP THREE.

STEP FIVE: Subtract the amount determined in STEP FOUR from the amount determined in STEP ONE.

(f) As used in this section, a taxing unit's "determination year" means the latest of:

(1) calendar year 1987, if the taxing unit is treated as being located in an adopting county for calendar year 1987 under section 4 of this chapter;

(2) the taxing unit's base year, as defined in section 5 of this chapter, if the taxing unit is treated as not being located in an adopting county for calendar year 1987 under section 4 of this chapter; or

(3) the ensuing calendar year following the first year that the taxing unit is located in a county that has a county adjusted gross income tax rate of more than one-half percent (0.5%) on July 1 of that year.

The amount to be used in subsections (d) and (e) for a taxing unit depends upon the taxing unit's certified share for the ensuing calendar year, the taxing unit's determination year, and the county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) that is in effect in the taxing unit's county on July 1 of the year preceding the ensuing calendar year. For the determination year and the ensuing calendar years following the taxing unit's determination year, the amount is the taxing unit's certified share for the ensuing calendar year multiplied by the appropriate factor prescribed in the following table:

COUNTIES WITH A TAX RATE OF 1/2%

Year	Subsection (e) Factor

For the determination year and each ensuing calendar year following the determination year 0

COUNTIES WITH A TAX RATE OF 3/4%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	1/2

COUNTIES WITH A TAX RATE OF 1.0%

Year	Subsection (d) Factor	Subsection (e) Factor
For the determination year	1/6	1/3
For the ensuing calendar year following the determination year	1/4	1/3
For the ensuing calendar year following the determination year by two (2) years	1/3	1/3

(g) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a civil taxing unit that is located in a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30. Notwithstanding any provision in this section or any other section of this chapter and except as provided in subsection (h), the maximum permissible ad valorem property tax levy calculated under this section for the ensuing calendar year for a civil taxing unit subject to this section is equal to the civil taxing unit's maximum permissible ad valorem property tax levy for the current calendar year.

(h) This subsection applies only to property taxes first due and payable after December 31, 2007. In the case of a civil taxing unit that:

(1) is partially located in a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30; and

(2) is partially located in a county that is not described in subdivision (1);

the department of local government finance shall, notwithstanding subsection (g), adjust the portion of the civil taxing unit's maximum permissible ad valorem property tax levy that is attributable (as determined by the department of local government finance) to the county or counties

described in subdivision (2). The department of local government finance shall adjust this portion of the civil taxing unit's maximum permissible ad valorem property tax levy so that, notwithstanding subsection (g), this portion is allowed to increase as otherwise provided in this section. If the department of local government finance increases the civil taxing unit's maximum permissible ad valorem property tax levy under this subsection, any additional property taxes imposed by the civil taxing unit under the adjustment shall be paid only by the taxpayers in the county or counties described in subdivision (2).

SECTION 170. IC 6-1.1-18.5-7, AS AMENDED BY P.L.224-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A civil taxing unit is not subject to the levy limits imposed by section 3 of this chapter for an ensuing calendar year if the civil taxing unit did not adopt an ad valorem property tax levy for the immediately preceding calendar year.

(b) If under subsection (a) a civil taxing unit is not subject to the levy limits imposed under section 3 of this chapter for a calendar year, the civil taxing unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for that calendar year to the local government tax control board established by section 11 of this chapter ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ before the tax levy is advertised. The local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall then review and make a recommendation to the department of local government finance on the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for that calendar year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for that calendar year. However, a civil taxing unit may not impose a property tax levy for a year if the unit did not exist as of March 1 of the preceding year.

SECTION 171. IC 6-1.1-18.5-8, AS AMENDED BY P.L.224-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit if the civil taxing unit is committed to levy the taxes to pay or fund either:

(1) bonded indebtedness; or

(2) lease rentals under a lease with an original term of at least five (5)

years.

(b) ~~This subsection does not apply to bonded indebtedness incurred or leases executed for a capital project approved by a county board of tax and capital projects review under IC 6-1.1-29.5 after December 31, 2008.~~ **Except as provided by subsections (g) and (h),** a civil taxing unit must file a petition requesting approval from the department of local government finance to incur bonded indebtedness or execute a lease with an original term of at least five (5) years not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2) **(as in effect before July 1, 2008),** unless the civil taxing unit demonstrates that a longer period is reasonable in light of the civil taxing unit's facts and circumstances. A civil taxing unit must obtain approval from the department of local government finance before the civil taxing unit may:

(1) incur the bonded indebtedness; or

(2) enter into the lease.

~~Before January 1, 2009,~~ The department of local government finance may seek recommendations from the local government tax control board established by section 11 of this chapter when determining whether to authorize incurring the bonded indebtedness or the execution of the lease.

(c) The department of local government finance shall render a decision within three (3) months after the date it receives a request for approval under subsection (b). However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the civil taxing unit. A civil taxing unit may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.

(d) A civil taxing unit does not need approval under subsection (b) to obtain temporary loans made in anticipation of and to be paid from current revenues of the civil taxing unit actually levied and in the course of collection for the fiscal year in which the loans are made.

(e) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a calendar year does not include that part of its levy that is committed to fund or pay bond indebtedness or lease rentals with an original term of five (5) years in subsection (a).

(f) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

(g) This subsection applies only to bonds, leases, and other obligations for which a civil taxing unit:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of bonds, leases, or other obligations payable from ad valorem property taxes but not described in subdivision (1), adopts a resolution or ordinance authorizing the bonds, lease rental agreement, or other obligations after June 30, 2008.

Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance is not required before a civil taxing unit may issue or enter into bonds, a lease, or any other obligation.

(h) This subsection applies after June 30, 2008. Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance is not required before a civil taxing unit may construct, alter, or repair a capital project.

SECTION 172. IC 6-1.1-18.5-9.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9.7. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed under ~~any of the following:~~

~~(1) IC 12-16, except IC 12-16-1;~~

~~(2) IC 12-19-5.~~

~~(3) IC 12-19-7.~~

~~(4) IC 12-19-7.5.~~

~~(5)~~ IC 12-20-24.

(b) For purposes of computing the ad valorem property tax levy limits imposed under section 3 of this chapter, a county's or township's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under the citations listed in subsection (a).

~~(c) Section 8(b) of this chapter does not apply to bonded indebtedness that will be repaid through property taxes imposed under IC 12-19.~~

(c) Notwithstanding subsections (a) and (b), the ad valorem property tax levy limits imposed by section 3 of this chapter apply to

property taxes imposed under IC 12-20-24 after December 31, 2008, to pay principal and interest on any short term loans obtained under IC 12-20 after December 31, 2008.

SECTION 173. IC 6-1.1-18.5-9.9, AS AMENDED BY P.L.2-2006, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 9.9. (a) The department of local government finance shall adjust the maximum property tax rate levied under the statutes listed in section 9.8(a) of this chapter, IC 20-46-3-6, or IC 20-46-6-5 in each county for property taxes first due and payable in:

(1) 2004;

(2) the year the county first applies the deduction under IC 6-1.1-12-41, if the county first applies that deduction for property taxes first due and payable in 2005 or 2006; and

(3) 2007, if the county does not apply the deduction under IC 6-1.1-12-41 for any year.

(b) If the county does not apply the deduction under IC 6-1.1-12-41 for property taxes first due and payable in 2004, the department shall compute the adjustment under subsection (a)(1) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if exemptions under IC 6-1.1-10-29(b)(2) **(repealed)** did not apply for the 2003 assessment date.

(c) If the county applies the deduction under IC 6-1.1-12-41 for property taxes first due and payable in 2004, the department shall compute the adjustment under subsection (a)(1) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if:

(1) exemptions under IC 6-1.1-10-29(b)(2) **(repealed);** and

(2) deductions under IC 6-1.1-12-41;

did not apply for the 2003 assessment date.

(d) The department shall compute the adjustment under subsection (a)(2) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if deductions under IC 6-1.1-12-41 did not apply for the assessment date of the year that immediately precedes the year for which the adjustment is made.

(e) The department shall compute the adjustment under subsection (a)(3) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if deductions under IC 6-1.1-12-42 did not apply for the 2006 assessment date.

SECTION 174. IC 6-1.1-18.5-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) **Subject to subsection (d),** the ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

(1) community mental health centers under:

(A) IC 12-29-2-1.2, for only those civil taxing units that authorized financial assistance under IC 12-29-1 before 2002 for a community mental health center as long as the tax levy under this section does not exceed the levy authorized in 2002;

(B) IC 12-29-2-2 through IC 12-29-2-5; and

(C) IC 12-29-2-13; or

(2) community mental retardation and other developmental disabilities centers under IC 12-29-1-1;

to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.

(b) **Subject to subsection (d),** for purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

(c) This subsection applies to property taxes first due and payable after December 31, 2008. Notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

(d) The exemptions under subsections (a) and (b) from the ad valorem property tax levy limits do not apply to a civil taxing unit that did not fund a community mental health center or community mental retardation and other developmental disabilities center in 2008.

SECTION 175. IC 6-1.1-18.5-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10.1. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a county, city, or town to supplemental juror fees adopted under IC 33-37-10-1, to the extent

provided in ~~subsection~~ **subsections** (b) **and (c).**

(b) **Subject to subsection (c),** for purposes of determining the property tax levy limit imposed on a county, city, or town under section 3 of this chapter, the county, city, or town's ad valorem property tax levy for a calendar year does not include an amount equal to:

(1) the average annual expenditures for nonsupplemental juror fees under IC 33-37-10-1, using the five (5) most recent years for which expenditure amounts are available; multiplied by

(2) the percentage increase in juror fees that is attributable to supplemental juror fees under the most recent ordinance adopted under IC 33-37-10-1.

(c) For property taxes first due and payable after December 31, 2008, property taxes may be excluded under subsection (b) from the ad valorem property tax levy limits imposed by section 3 of this chapter only to the extent that:

(1) the county fiscal body adopts a resolution approving some or all of the property taxes that may be excluded by a city or town under subsection (b), in the case of property taxes imposed by a city or town; or

(2) the county fiscal body adopts a resolution:

(A) that approves some or all of the property taxes that may be excluded by the county under subsection (b); and

(B) that explains why the exclusion under subsection (b) is necessary and in the best interest of taxpayers;

in the case of property taxes imposed by the county.

In the case of a city or town located in more than one (1) county, the exclusion under subsection (b) must be approved by the fiscal body of the county in which the greatest part of the city's or town's net assessed valuation is located.

SECTION 176. IC 6-1.1-18.5-10.3, AS AMENDED BY P.L.231-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10.3. (a) **This subsection does not apply to property taxes first due and payable after December 31, 2008.** The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a library board for a capital projects fund under IC 36-12-12. However, the maximum amount that is exempt from the levy limits under this section may not exceed the property taxes that would be raised in the ensuing calendar year with a property tax rate of one and thirty-three hundredths cents ($0.0133) per one hundred dollars ($100) of assessed valuation.

(b) **This subsection does not apply to property taxes first due and payable after December 31, 2008.** For purposes of computing the ad valorem property tax levy limit imposed on a library board under section 3 of this chapter, the library board's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-12-12 that is exempt from the ad valorem property tax levy limits under subsection (a).

SECTION 177. IC 6-1.1-18.5-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10.5. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19, if the civil taxing unit is a participating unit in a fire protection territory established before August 1, 2001. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter on a civil taxing unit that is a participating unit in a fire protection territory established before August 1, 2001, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(b) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19 for the three (3) calendar years in which the participating unit levies a tax to support the territory. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter for the three (3) calendar years for which the participating unit levies a tax to support the territory, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(c) This subsection applies to property taxes first due and payable after December 31, 2008. Notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

SECTION 178. IC 6-1.1-18.5-11, AS AMENDED BY P.L.224-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A local government tax control board is established. The board consists of nine (9) members, seven (7) of whom are voting members and two (2) of whom are nonvoting members.

(b) The seven (7) voting members shall be appointed as follows:

(1) One (1) member appointed by the state board of accounts.

(2) One (1) member appointed by the department of local government finance.

(3) Five (5) members appointed by the governor. Three (3) of the members appointed by the governor must be citizens of Indiana who do not hold a political or elective office in state or local government. The governor may seek the recommendation of representatives of the cities, towns, and counties before appointing the other two (2) members to the board.

(c) The two (2) nonvoting members of the board shall be appointed as follows:

(1) One (1) member of the house of representatives, appointed by the speaker of the house.

(2) One (1) member of the senate, appointed by the president pro tempore of the senate.

(d) All members of the local government tax control board shall serve at the will of the board or person that appointed them.

(e) The local government tax control board shall annually hold an organizational meeting. At this organizational meeting the board shall elect a chairman and a secretary from its membership. The board shall meet after each organizational meeting as often as its business requires.

(f) The department of local government finance shall provide the local government tax control board with rooms, staff, and secretarial assistance for its meetings.

(g) Members of the local government tax control board shall serve without compensation, except as provided in subsections (h) and (i).

(h) Each member of the local government tax control board who is not a state employee is entitled to receive both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) Each member of the local government tax control board who is a

state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

~~(j) The local government tax control board is abolished December 31, 2008.~~

SECTION 179. IC 6-1.1-18.5-12, AS AMENDED BY HEA 1137-2008, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) Any civil taxing unit that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before September 20 of the calendar year immediately preceding the ensuing calendar year; or

(2) in the case of a request described in section 16 of this chapter, before December 31 of the calendar year immediately preceding the ensuing calendar year;

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board ~~or the county board of tax and capital projects review~~ shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board ~~or the county board of tax and capital projects review~~ has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board ~~or the county board of tax and capital projects review~~ after

having been given written notice from the local government tax control board ~~or the county board of tax and capital projects review~~ requiring that person's attendance; or

(2) fails to produce for the local government tax control board's ~~or the county board of tax and capital projects review's~~ use the books and records that the local government tax control board ~~or the county board of tax and capital projects review~~ by written notice required the officer or member to produce;

then the local government tax control board ~~or the county board of tax and capital projects review~~ may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board ~~or the county board of tax and capital projects review,~~ to provide information to the local government tax control board ~~or the county board of tax and capital projects review,~~ or to produce books and records for the local government tax control board's ~~or the county board of tax and capital projects review's~~ use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 180. IC 6-1.1-18.5-13, AS AMENDED BY HEA 1137-2008, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board

~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) ~~A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.~~ Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons. **With respect to annexation, consolidation, or other extensions of governmental services in a calendar year, if those increased costs are incurred by the civil taxing unit in that calendar year and more than one (1) immediately succeeding calendar year, the unit may appeal under section 12 of this chapter for permission to increase its levy under this subdivision based on those increased costs in any of the following:**

(A) The first calendar year in which those costs are incurred.

(B) One (1) or more of the immediately succeeding four (4) calendar years.

(2) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's estimate of the unit's share of the costs of operating a court for the first full calendar year in which it is in existence. For purposes of this subdivision, costs of operating a court include:

(A) the cost of personal services (including fringe benefits);

(B) the cost of supplies; and

(C) any other cost directly related to the operation of the court.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and two-hundredths (1.02):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property or the initial annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5 does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and:

(i) for a particular calendar year before 2007, the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year; **or**

(ii) for a particular calendar year after 2006, the total assessed value of property tax deductions that applied in the unit under IC 6-1.1-12-42 in 2006;

divided by the sum ~~of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in~~ **determined under this STEP for** the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and:

(i) for a particular calendar year before 2007, the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year; **or**

(ii) for a particular calendar year after 2006, the total assessed value of property tax deductions that applied in all counties under IC 6-1.1-12-42 in 2006;

divided by the sum ~~of the total assessed value of all taxable~~

~~property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in~~ **determined under this STEP for** the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars ($10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) A levy increase may not be granted under this subdivision for

property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars ($100) of assessed valuation before the increase.

(7) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing

unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent ($0.01) per one hundred dollars ($100) of assessed valuation.

(8) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths

cents ($0.0667) for each one hundred dollars ($100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) ~~A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2009.~~ Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

(13) A levy increase may be granted under this subdivision only for property taxes first due and payable after December 31, ~~2009.~~ **2008.** Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if the civil taxing unit cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter **due to a natural disaster, an accident, or another unanticipated emergency.**

SECTION 181. IC 6-1.1-18.5-13.6, AS AMENDED BY P.L.224-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13.6. A levy increase may not be granted under this section for property taxes first due and payable after December 31, ~~2009.~~ **2008.** For an appeal filed under section 12 of this chapter, the local government tax control board may recommend that the department of local government finance give permission to a county to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that the county needs the increase to pay for:

(1) a new voting system; or

(2) the expansion or upgrade of an existing voting system;

under IC 3-11-6.

SECTION 182. IC 6-1.1-18.5-14, AS AMENDED BY P.L.224-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ may recommend to the department of local government finance a correction of any advertising error, mathematical error, or error in data made at the local level for any calendar year that affects the determination of the limitations established by section

3 of this chapter or the tax rate or levy of a civil taxing unit. The department of local government finance may on its own initiative correct such an advertising error, mathematical error, or error in data for any civil taxing unit.

(b) A correction made under subsection (a) for a prior calendar year shall be applied to the civil taxing unit's levy limitations, rate, and levy for the ensuing calendar year to offset any cumulative effect that the error caused in the determination of the civil taxing unit's levy limitations, rate, or levy for the ensuing calendar year.

SECTION 183. IC 6-1.1-18.5-15, AS AMENDED BY P.L.224-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The department of local government finance, upon receiving a recommendation made under section 13 or 14 of this chapter, shall enter an order adopting, rejecting, or adopting in part and rejecting in part the recommendation of the local government tax control board. ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008).~~

(b) A civil taxing unit may petition for judicial review of the final determination ~~of~~ **made by** the department of local government finance under subsection (a). The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under subsection (a).

SECTION 184. IC 6-1.1-18.5-16, AS AMENDED BY P.L.224-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A civil taxing unit may request permission from the local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if:

(1) the civil taxing unit experienced a property tax revenue shortfall that resulted from erroneous assessed valuation figures being provided to the civil taxing unit;

(2) the erroneous assessed valuation figures were used by the civil taxing unit in determining its total property tax rate; and

(3) the error in the assessed valuation figures was found after the civil taxing unit's property tax levy resulting from that total rate was finally approved by the department of local government finance.

(b) A civil taxing unit may request permission from the local

government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if the civil taxing unit experienced a property tax revenue shortfall because of the payment of refunds that resulted from appeals under this article and IC 6-1.5.

(c) If the local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ determines that a shortfall described in subsection (a) or (b) has occurred, it shall recommend to the department of local government finance that the civil taxing unit be allowed to impose a property tax levy exceeding the limit imposed by section 3 of this chapter, and the department may adopt such recommendation. However, the maximum amount by which the civil taxing unit's levy may be increased over the limits imposed by section 3 of this chapter equals the remainder of the civil taxing unit's property tax levy for the particular calendar year as finally approved by the department of local government finance minus the actual property tax levy collected by the civil taxing unit for that particular calendar year.

(d) Any property taxes collected by a civil taxing unit over the limits imposed by section 3 of this chapter under the authority of this section may not be treated as a part of the civil taxing unit's maximum permissible ad valorem property tax levy for purposes of determining its maximum permissible ad valorem property tax levy for future years.

(e) If the department of local government finance authorizes an excess tax levy under this section, it shall take appropriate steps to insure that the proceeds are first used to repay any loan made to the civil taxing unit for the purpose of meeting its current expenses.

SECTION 185. IC 6-1.1-19-1, AS AMENDED BY P.L.2-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Appeal" refers to an appeal taken to the department of local government finance by or in respect of a school corporation under any of the following:

(A) IC 6-1.1-17.

~~(B) This chapter.~~

~~(C) IC 20-45.~~

~~(D) IC 20-46.~~

(B) IC 20-43.

(2) "Tax control board" means the school property tax control board established by section 4.1 of this chapter.

SECTION 186. IC 6-1.1-19-3, AS AMENDED BY P.L.2-2006, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) When an appeal is taken to the department of local government finance, the department may exercise the powers described in IC 6-1.1-17 to revise, change, or increase the budget, tax levy, or tax rate of the appellant school corporation. ~~subject to this chapter, IC 20-45, and IC 20-46.~~

(b) The department of local government finance may not exercise any of the powers described in subsection (a) until it receives, regarding the appellant school corporation's budget, tax levy, or tax rate, the recommendation of the tax control board.

SECTION 187. IC 6-1.1-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. For purposes of this chapter, the term "bonds" means any bonds or other evidences of indebtedness payable from property taxes, ~~for a controlled project,~~ but does not include:

(1) notes representing loans under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 which are payable within five (5) years after issuance;

(2) warrants representing temporary loans which are payable out of taxes levied and in the course of collection;

(3) a lease;

(4) obligations; or

(5) funding, refunding, or judgment funding bonds of political subdivisions.

SECTION 188. IC 6-1.1-20-1.1, AS AMENDED BY P.L.2-2006, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. As used in this chapter, "controlled project" means any project financed by bonds or a lease, except for the following:

(1) A project for which the political subdivision reasonably expects to pay:

(A) debt service; or

(B) lease rentals;

from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 or **(before January 1, 2009)** IC 20-45-3. A project is not a controlled project even though the political subdivision has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient.

(2) A project that will not cost the political subdivision more than **the lesser of the following:**

(A) Two million dollars ($2,000,000).

(B) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars ($1,000,000).

(3) A project that is being refinanced for the purpose of providing gross or net present value savings to taxpayers.

(4) A project for which bonds were issued or leases were entered into before January 1, 1996, or where the state board of tax commissioners has approved the issuance of bonds or the execution of leases before January 1, 1996.

(5) A project that is required by a court order holding that a federal law mandates the project.

(6) A project that:

(A) is in response to:

(i) a natural disaster;

(ii) an accident; or

(iii) an emergency;

in the political subdivision that makes a building or facility unavailable for its intended use; and

(B) is approved by the county council of each county in which the political subdivision is located.

(7) A project that was not a controlled project under this section as in effect on June 30, 2008, and for which:

(A) the bonds or lease for the project were issued or entered into before July 1, 2008; or

(B) the issuance of the bonds or the execution of the lease for the project was approved by the department of local government finance before July 1, 2008.

SECTION 189. IC 6-1.1-20-1.3, AS AMENDED BY P.L.2-2006, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.3. As used in this chapter, "lease" means a lease by a political subdivision of any ~~controlled~~ project with lease rentals payable from property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 or **(before January 1, 2009)** IC 20-45-3.

SECTION 190. IC 6-1.1-20-1.9, AS ADDED BY P.L.219-2007, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.9. As used in this chapter, "registered voter" means

the following:

(1) In the case of a petition under section 3.1 of this chapter to initiate a petition and remonstrance process, an individual who is registered to vote in the political subdivision on the date the proper officers of the political subdivision publish notice under section ~~3.1(2)~~ **3.1(b)(2)** of this chapter of a preliminary determination by the political subdivision to issue bonds or enter into a lease.

(2) In the case of:

(A) a petition under section 3.2 of this chapter in favor of the proposed debt service or lease payments; or

(B) a remonstrance under section 3.2 of this chapter against the proposed debt service or lease payments;

an individual who is registered to vote in the political subdivision on the date that is thirty (30) days after the notice of the applicability of the petition and remonstrance process is published under section ~~3.2(1)~~ **3.2(b)(1)** of this chapter.

(3) In the case of a public question held under section 3.6 of this chapter, an individual who is registered to vote in the political subdivision on the date that is thirty (30) days before the date of the election in which the public question will be held.

SECTION 191. IC 6-1.1-20-3.1, AS AMENDED BY P.L.219-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. **(a) This section applies only to the following:**

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

(2) An elementary school building, middle school building, or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of kindergarten through grade 8;

(C) will not be used for any combination of grade 9 through grade 12; and

(D) will not cost more than ten million dollars ($10,000,000).

(3) A high school building or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of grade 9 through grade 12;

(C) will not be used for any combination of kindergarten through grade 8; and

(D) will not cost more than twenty million dollars ($20,000,000).

(4) Any other controlled project that:

(A) is not a controlled project described in subdivision (1), (2), or (3); and

(B) will not cost the political subdivision more than the lesser of the following:

(i) Twelve million dollars ($12,000,000).

(ii) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars ($1,000,000).

(b) A political subdivision may not impose property taxes to pay debt service **on bonds** or lease rentals **on a lease for a controlled project** without completing the following procedures:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease **for a controlled project,** the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease **for a controlled project** must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total

interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16 **before January 1, 2009)** for an increased maximum permissible tuition support levy to pay the estimated costs described in clause (F).

(H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or

owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real

property within the political subdivision.

(9) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8) make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own real property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition

requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 192. IC 6-1.1-20-3.2, AS AMENDED HEA1137-2008, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. **(a) This section applies only to controlled projects described in section 3.1(a) of this chapter.**

(b) If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service **on bonds** or lease rentals **on a lease for a controlled project** without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section ~~3.1(1)(B)~~ **3.1(b)(1)(B)** of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision. Each signature on a petition must be dated, and the date of signature may not be before the date on which the petition and

remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county voter registration office under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition or remonstrance forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of real property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as a real property owner must indicate the address of the real property owned by the person in the political subdivision. The county voter registration office may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county voter registration office

shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county voter registration office within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a

registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition or remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(7) The county voter registration office must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within thirty-five (35) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county voter registration office may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(8) If a greater number of persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this

section or any other controlled project that is not substantially different within one (1) year after the date of the county voter registration office's certificate under subdivision (7). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(9) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance if required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SECTION 193. IC 6-1.1-20-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) This section applies only to a controlled project that meets the following conditions:**

(1) The controlled project is described in one (1) of the following categories:

(A) An elementary school building, middle school building, or other school building for academic instruction that:

(i) will be used for any combination of kindergarten through grade 8;

(ii) will not be used for any combination of grade 9 through grade 12; and

(iii) will cost more than ten million dollars ($10,000,000).

(B) A high school building or other school building for academic instruction that:

(i) will be used for any combination of grade 9 through grade 12;

(ii) will not be used for any combination of kindergarten through grade 8; and

(iii) will cost more than twenty million dollars ($20,000,000).

(C) Any other controlled project that:

(i) is not a controlled project described in clause (A) or (B); and

(ii) will cost the political subdivision more than the lesser of

twelve million dollars ($12,000,000) or an amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least one million dollars ($1,000,000)).

(2) The proper officers of the political subdivision make a preliminary determination after June 30, 2008, in the manner described in subsection (b) to issue bonds or enter into a lease for the controlled project.

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall publish notice in accordance with IC 5-3-1 and send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for notices of any meeting to consider the adoption of an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on the preliminary determination before adoption of the ordinance or resolution. The political subdivision must make the following information available to the public at the public hearing on the preliminary determination, in addition to any other information required by law:

(A) The result of the political subdivision's current and projected annual debt service payments divided by the net assessed value of taxable property within the political subdivision.

(B) The result of:

(i) the sum of the political subdivision's outstanding long term debt plus the outstanding long term debt of other taxing units that include any of the territory of the political subdivision; divided by

(ii) the net assessed value of taxable property within the political subdivision.

(2) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in

subdivision (1).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that the proposed debt service or lease payments must be approved in an election on a local public question held under section 3.6 of this chapter.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to annually incur to operate the facility.

(G) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of the local public question process under section 3.6 of this chapter may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter

residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined that at least one hundred twenty-five (125) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration office does not determine that at least one hundred twenty-five (125) persons who signed the petition are registered voters, the county voter

registration office, not more than fifteen (15) business days after receiving a petition, shall forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(9) The county voter registration office, not more than ten (10) business days after determining that at least one hundred twenty-five (125) persons who signed the petition are registered voters or after receiving the statement from the county auditor under subdivision (8) (as applicable), shall make the final determination of whether a sufficient number of persons have signed the petition. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular referendum process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the political subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section,

if a petition is presented to the county voter registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting the referendum process. The certificate must state the number of petitioners who are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(11) If a sufficient petition requesting the local public question process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall provide to the county auditor:

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

SECTION 194. IC 6-1.1-20-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.6. (a) This section applies only to a controlled project described in section 3.5(a) of this chapter.**

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under

this section.

(c) The following question shall be submitted to the voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert the description of the controlled project)?".

(d) The county auditor shall certify the public question described in subsection (c) under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. After the public question is certified, the public question shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the political subdivision are entitled to vote. However, if a primary election, general election, or municipal election will not be held in the six (6) month period after the county auditor certifies the public question, the public question shall be placed on the ballot at a special election to be held:

(1) not earlier than ninety (90) days; and

(2) not later than one hundred twenty (120) days;

after the public question is certified if the fiscal body of the political subdivision that wishes to issue the bonds or enter into the lease requests the public question to be voted on in a special election. However, in a year in which a general election or municipal election is held, the public question may be placed on the ballot at a special election only if the fiscal body of the political subdivision that requests the special election agrees to pay the costs of holding the special election. In a year in which a general election is not held and a municipal election is not held, the fiscal body of the political subdivision that requests the special election is not required to pay the costs of holding the special election. The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(e) The circuit court clerk shall certify the results of the public question to the following:

(1) The county auditor of each county in which the political subdivision is located.

(2) The department of local government finance.

(f) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed

lease rental if a majority of the voters voting on the public question vote in favor of the public question.

(g) If a majority of the voters voting on the public question vote in opposition to the public question, both of the following apply:

(1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.

(2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than one (1) year after the date of the election.

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(i) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

SECTION 195. IC 6-1.1-20-5, AS AMENDED BY P.L.224-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) When the proper officers of a political subdivision decide to issue bonds **or enter into leases** in a total amount which exceeds five thousand dollars ($5,000), they shall give notice of the decision by:

(1) posting; and

(2) publication once each week for two (2) weeks.

The notice required by this section shall be posted in three (3) public places in the political subdivision and published in accordance with IC 5-3-1-4. The decision to issue bonds may be a preliminary decision.

(b) This subsection does not apply to bonds ~~issued for a controlled project approved after December 31, 2008, by a county board of tax and capital projects review under IC 6-1.1-29.5.~~ **or lease rental agreements for which a political subdivision:**

(1) after June 30, 2008, makes:

(A) a preliminary determination as described in section 3.1 or 3.5 of this chapter; or

(B) a decision as described in subsection (a); or

(2) in the case of bonds or lease rental agreements not subject to section 3.1 or 3.5 of this chapter and not subject to subsection (a), adopts a resolution or ordinance authorizing the bonds or lease rental agreement after June 30, 2008.

Ten (10) or more taxpayers who will be affected by the proposed issuance of the bonds and who wish to object to the issuance on the grounds that it is unnecessary or excessive may file a petition in the office of the auditor

of the county in which the political subdivision is located. The petition must be filed within fifteen (15) days after the notice required by subsection (a) is given, and it must contain the objections of the taxpayers and facts which show that the proposed issue is unnecessary or excessive. When taxpayers file a petition in the manner prescribed in this subsection, the county auditor shall immediately forward a certified copy of the petition and any other relevant information to the department of local government finance.

SECTION 196. IC 6-1.1-20-7, AS AMENDED BY P.L.224-2007, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) This section does not apply to bonds, notes, or warrants ~~issued for a controlled project approved after December 31, 2008, by a county board of tax and capital projects review under IC 6-1.1-29.5.~~ **for which a political subdivision:**

(1) after June 30, 2008, makes a preliminary determination as described in section 3.1 or 3.5 of this chapter or a decision as described in section 5 of this chapter; or

(2) in the case of bonds, notes, or warrants not subject to section 3.1, 3.5, or 5 of this chapter, adopts a resolution or ordinance authorizing the bonds, notes, or warrants after June 30, 2008.

(b) When the proper officers of a political subdivision decide to issue any bonds, notes, or warrants which will be payable from property taxes and which will bear interest in excess of eight percent (8%) per annum, the political subdivision shall submit the matter to the department of local government finance for review. The department of local government finance may either approve or disapprove the rate of interest.

SECTION 197. IC 6-1.1-20-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. This section applies only to bonds, leases, and other debt for which a political subdivision:**

(1) after June 30, 2008, makes a preliminary determination as described in section 3.1 or 3.5 of this chapter or a decision as described in section 5 of this chapter; or

(2) in the case of bonds, leases, or other obligations not subject to section 3.1, 3.5, or 5 of this chapter, adopts a resolution or ordinance authorizing the bonds, lease rental agreement, or other obligations after June 30, 2008.

Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance are not required before a political subdivision

may issue or enter into bonds, a lease, or any other obligations payable from ad valorem property taxes.

SECTION 198. IC 6-1.1-20-9, AS AMENDED BY P.L.224-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) When the proper officers of a political subdivision decide to issue bonds payable from property taxes to finance a public improvement **or enter into a lease rental agreement payable from property taxes to finance a public improvement,** they shall adopt an ordinance or resolution which sets forth their determination to issue the bonds **or enter into the lease rental agreement.** Except as provided in subsection (b), the political subdivision may not advertise for or receive bids for the construction of the improvement until the expiration of: ~~the latter of:~~

(1) the time period within which taxpayers may file a petition:

(A) for review of or a remonstrance against the proposed issue **or lease, in the case of a proposed issue or lease that is subject to section 3.1 of this chapter; or**

(B) to initiate the local public question process, in the case of a proposed issue or lease that is subject to section 3.5 of this chapter; or

(2) the time period during which a petition for review of the proposed issue **or lease** is pending before the department of local government finance ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008).~~ **(in the case of bonds or a lease for which a petition for review may be filed with the department of local government finance).**

(b) This subsection ~~applies before January 1, 2009.~~ **does not apply to bonds or lease rental agreements for which a political subdivision:**

(1) after June 30, 2008, makes:

(A) a preliminary determination as described in section 3.1 or 3.5 of this chapter; or

(B) a decision as described in section 5 of this chapter; or

(2) in the case of bonds or lease rental agreements not subject to section 3.1 or 3.5 of this chapter and not subject to section 5 of this chapter, adopts a resolution or ordinance authorizing the bonds or lease rental agreement after June 30, 2008.

When a petition for review of a proposed issue is pending before the department of local government finance, the department may order the political subdivision to advertise for and receive bids for the construction of the public improvement. When the department of local government

finance issues such an order, the political subdivision shall file a bid report with the department within five (5) days after the bids are received, and the department shall render a final decision on the proposed issue within fifteen (15) days after it receives the bid report. Notwithstanding the provisions of this subsection, a political subdivision may not enter into a contract for the construction of a public improvement while a petition for review of the bond issue which is to finance the improvement is pending before the department of local government finance.

~~(c) This subsection applies after December 31, 2008. When a petition for review of a proposed issue is pending before the county board of tax and capital projects review, the board may order the political subdivision to advertise for and receive bids for the construction of the public improvement. When the county board of tax and capital projects review issues such an order, the political subdivision shall file a bid report with the board within five (5) days after the bids are received, and the board shall render a final decision on the proposed issue within fifteen (15) days after it receives the bid report. Notwithstanding the provisions of this subsection, a political subdivision may not enter into a contract for the construction of a public improvement while a petition for review of the bond issue that is to finance the improvement is pending before the county board of tax and capital projects review.~~

SECTION 199. IC 6-1.1-20-10, AS AMENDED BY P.L.162-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) This section applies to a political subdivision that adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease. During the period commencing with the adoption of the ordinance or resolution and, if a petition and remonstrance process is commenced under section 3.2 of this chapter, continuing through the sixty (60) day period commencing with the notice under section ~~3.2(1)~~ **3.2(b)(1)** of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the

political subdivision to promote a position on the petition or remonstrance or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, **registered professional engineer,** a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the petition or remonstrance at any time.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a petition or remonstrance.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on the petition or remonstrance. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, **registered professional engineer,** a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on the petition or remonstrance. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

SECTION 200. IC 6-1.1-20-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.1. (a) This section applies only to a political subdivision that, after June 30, 2008, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to sections 3.5 and 3.6 of this chapter.**

(b) During the period beginning with the adoption of the ordinance or resolution and continuing through the day on which a local public question is submitted to the voters of the political subdivision under section 3.6 of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the local public question by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the local public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the local public question. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the local public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the local public question at any time.

(4) In the case of a school corporation, promoting a position on a local public question by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a local public question that are part of the normal and regular conduct of the

employee's office or agency.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a controlled project subject to a local public question held under section 3.6 of this chapter.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a local public question. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on a local public question. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

SECTION 201. IC 6-1.1-20.3-1, AS ADDED BY P.L.224-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, ~~"circuit breaker~~ "board" refers to the ~~circuit breaker relief~~ **distressed unit** appeal board established by section 4 of this chapter.

SECTION 202. IC 6-1.1-20.3-2, AS ADDED BY P.L.224-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "distressed political subdivision" means a political subdivision that ~~will~~ **expects to** have the political subdivision's property tax collections reduced by at least ~~two~~ **five** percent ~~(2%)~~ **(5%)** in a calendar year as a result of the application of the credit under IC 6-1.1-20.6 for that calendar year.

SECTION 203. IC 6-1.1-20.3-4, AS ADDED BY P.L.224-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The ~~circuit breaker relief~~ **distressed unit** appeal board is established.

(b) The ~~circuit breaker relief~~ **distressed unit** appeal board consists of the following members:

(1) The director of the office of management and budget or the director's designee. The director or the director's designee shall serve as chairperson of the ~~circuit breaker relief~~ **distressed unit** appeal board.

(2) The commissioner of the department of local government finance or the commissioner's designee.

(3) The commissioner of the department of state revenue or the commissioner's designee.

(4) The state examiner of the state board of accounts or the state examiner's designee.

(5) The following members appointed by the governor:

(A) One (1) member appointed from nominees submitted by the Indiana Association of **C**ities and Towns.

(B) One (1) member appointed from nominees submitted by the Association of Indiana **C**ounties.

(C) One (1) member appointed from nominees submitted by the Indiana Association of **S**chool Superintendents.

A member nominated and appointed under this subdivision must be an elected official of a political subdivision.

(6) One (1) member appointed by the governor (in addition to members appointed under subdivision (5)).

(7) One (1) member appointed by the speaker of the house of representatives. A member appointed under this subdivision serves a term of four (4) years.

(c) The members appointed under subsection (b)(5) **and subsection (b)(6)** serve at the pleasure of the governor.

(d) Each member of the commission is entitled to reimbursement for:

(1) traveling expenses as provided under IC 4-13-1-4; and

(2) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 204. IC 6-1.1-20.3-5, AS ADDED BY P.L.224-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The department of local government finance shall provide the ~~circuit breaker~~ board with the staff and assistance that the ~~circuit breaker~~ board reasonably requires.

(b) The department of local government finance shall provide from the department's budget funding to support the ~~circuit breaker~~ board's duties under this chapter.

(c) The ~~circuit breaker~~ board may contract with accountants, financial experts, and other advisors and consultants as necessary to carry out the ~~circuit breaker~~ board's duties under this chapter.

SECTION 205. IC 6-1.1-20.3-6, AS ADDED BY P.L.224-2007,

SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For property taxes first due and payable in 2008 and thereafter, the fiscal body of a ~~county containing a~~ distressed political subdivision ~~(or the fiscal bodies of two (2) or more distressed political subdivisions acting jointly)~~ may petition the ~~circuit breaker~~ board for relief as authorized under this chapter from the application of the credit under IC 6-1.1-20.6 for a calendar year.

(b) A petition under subsection (a) must include a proposed financial plan for **the distressed** political ~~subdivisions in the county.~~ **subdivision.** The proposed financial plan must include the following:

(1) Proposed budgets that would enable the distressed political ~~subdivisions in the county~~ **subdivision** to cease being **a** distressed political ~~subdivisions.~~ **subdivision.**

(2) Proposed efficiencies, consolidations, cost reductions, uses of alternative or additional revenues, or other actions that would enable the distressed political ~~subdivisions in the county~~ **subdivision** to cease being **a** distressed political ~~subdivisions.~~ **subdivision.**

(3) Proposed increases, if any, in the percentage thresholds (specified as a percentage of gross assessed value) at which the credit under IC 6-1.1-20.6 will apply, including any varying percentages for different classes of property.

(4) Proposed reductions, if any, to the credits under IC 6-1.1-20.6 (by percentages), including any varying percentage reductions for different classes of property.

(c) The ~~circuit breaker~~ board may adopt procedures governing the timing and required content of a petition under subsection (a).

SECTION 206. IC 6-1.1-20.3-7, AS ADDED BY P.L.224-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the fiscal body of a ~~county (or the fiscal bodies of two (2) or more~~ distressed political ~~subdivisions acting jointly)~~ **subdivision** submits a petition under section 6 of this chapter, the ~~circuit breaker~~ board shall review the petition and assist in establishing a financial plan for **the distressed** political ~~subdivisions in the county.~~ **subdivision.**

(b) In reviewing a petition submitted under section 6 of this chapter, the ~~circuit breaker~~ board:

(1) shall consider:

(A) the proposed financial plan;

(B) comparisons to similarly situated political subdivisions;

(C) the existing revenue and expenditures of political subdivisions in the county; and

(D) any other factor considered relevant by the ~~circuit breaker~~ board; ~~and~~

(2) may establish subcommittees or temporarily appoint nonvoting members to the ~~circuit breaker~~ board to assist in the review.

SECTION 207. IC 6-1.1-20.3-8, AS ADDED BY P.L.224-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ~~circuit breaker~~ board may authorize relief as provided in subsection (b) from the application of the credit under IC 6-1.1-20.6 for a calendar year if the governing body of each political subdivision in the county **that is affected by the financial plan** has adopted a resolution agreeing to the terms of the financial plan.

(b) If the conditions of subsection (a) are satisfied, the ~~circuit breaker~~ board may, notwithstanding IC 6-1.1-20.6, do ~~either~~ **any** of the following:

(1) Increase ~~uniformly in the county~~ the percentage ~~threshold~~ **thresholds** (specified as a percentage of gross assessed value) at which the credit under IC 6-1.1-20.6 applies to a person's property tax liability **in the political subdivision.**

(2) Provide for ~~a uniform~~ percentage ~~reduction~~ **reductions** to credits otherwise provided under IC 6-1.1-20.6 in the ~~county.~~ **political subdivision.**

(3) Provide that some or all of the property taxes that:

(A) are being imposed to pay bonds, leases, or other debt obligations; and

(B) would otherwise be included in the calculation of the credit under IC 6-1.1-20.6 in the political subdivision;

shall not be included for purposes of calculating a person's credit under IC 6-1.1-20.6.

(c) If the ~~circuit breaker~~ board provides relief described in subsection (b), ~~in a county,~~ the ~~circuit breaker~~ board shall conduct audits and reviews as necessary to determine whether the **affected** political ~~subdivisions in the county are~~ **subdivision is** abiding by the terms of the financial plan agreed to under subsection (a).

SECTION 208. IC 6-1.1-20.3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. The board shall keep a record of its proceedings and its orders.**

SECTION 209. IC 6-1.1-20.3-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. A distressed political subdivision may petition the tax court for judicial review of a final determination of the**

board. The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board of tax review. The petition must be filed in the tax court not more than forty-five (45) days after the board enters its final determination.

SECTION 210. IC 6-1.1-20.3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. The tax court shall adopt rules and procedures under which proceedings are heard and decided.**

SECTION 211. IC 6-1.1-20.3-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS: **Sec. 12. (a) The burden of demonstrating the invalidity of an action taken by the board is on the party to the judicial review proceeding asserting the invalidity.**

(b) The validity of an action taken by the distressed unit appeal board shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under IC 33-26-6-7 only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the board that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

SECTION 212. IC 6-1.1-20.4-4, AS ADDED BY P.L.246-2005, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) A political subdivision may adopt an ordinance or resolution each year to provide for the use of revenue for the purpose of providing a homestead credit the following year to homesteads. An ordinance must be adopted under this section before December 31 for credits to be provided in the following year. The ordinance applies only to the immediately following year.

(b) A homestead credit under this chapter is to be applied to the net

property tax liability due on the homestead.

~~(c) A homestead credit under this chapter does not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.~~

SECTION 213. IC 6-1.1-20.6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 0.5. As used in this chapter, "agricultural land" refers to land assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance.**

SECTION 214. IC 6-1.1-20.6-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.6. As used in this chapter, "gross assessed value" refers to the assessed value of property after the application of all exemptions under IC 6-1.1-10 or any other provision.**

SECTION 215. IC 6-1.1-20.6-2, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. **(a)** As used in this chapter, "homestead" has the meaning set forth in ~~IC 6-1.1-20.9-1.~~ **IC 6-1.1-12-37.**

(b) The term includes a house or apartment that is owned or leased by a cooperative housing corporation (as defined in 26 U.S.C. 216(b)).

SECTION 216. IC 6-1.1-20.6-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.3. As used in this chapter, "long term care property" means property that:**

(1) is used for the long term care of an impaired individual; and

(2) is one (1) of the following:

(A) A health facility licensed under IC 16-28.

(B) A housing with services establishment (as defined in IC 12-10-15-3) that is allowed to use the term "assisted living" to describe the housing with services establishment's services and operations to the public.

(C) An independent living home that, under contractual agreement, serves not more than eight (8) individuals who:

(i) have a mental illness or developmental disability;

(ii) require regular but limited supervision; and

(iii) reside independently of their families.

SECTION 217. IC 6-1.1-20.6-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.4. As used in this chapter:**

(1) "manufactured home" has the meaning set forth in IC 22-12-1-16; and

(2) "mobile home" has the meaning set forth in IC 16-41-27-4.

SECTION 218. IC 6-1.1-20.6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.5. (a) As used in this chapter, "nonresidential real property" refers to either of the following:**

(1) Real property that:

(A) is not:

(i) a homestead; or

(ii) residential property; and

(B) consists of:

(i) a building or other land improvement; and

(ii) the land, not exceeding the area of the building footprint or improvement footprint, on which the building or improvement is located.

(2) Undeveloped land in the amount of the remainder of:

(A) the area of a parcel; minus

(B) the area of the parcel that is part of:

(i) a homestead; or

(ii) residential property.

(b) The term does not include agricultural land.

SECTION 219. IC 6-1.1-20.6-3, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "property tax liability" means, **for purposes of:**

(1) this chapter, other than section 8.5 of this chapter, liability for the tax imposed on property under this article determined after application of all credits and deductions under this article **or IC 6-3.5,** except the credit under this chapter, but does not include any interest or penalty imposed under this article; **and**

(2) section 8.5 of this chapter, liability for the tax imposed on property under this article determined after application of all credits and deductions under this article or IC 6-3.5, including the credit granted by section 7 or 7.5 of this chapter, but not including the credit granted under section 8.5 of this chapter or any interest or penalty imposed under this article.

SECTION 220. IC 6-1.1-20.6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "qualified**

homestead property" means a homestead that satisfies the following requirements:

(1) The individual who:

(A) owns the homestead;

(B) is purchasing the homestead under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or

(C) has a beneficial interest in the owner of the homestead;

is or will be at least sixty-five (65) years of age on or before December 31 of the calendar year immediately preceding the calendar year in which property taxes are first due and payable.

(2) The:

(A) adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual claiming the credit for a homestead; or

(B) combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual and the individual's spouse;

does not exceed the amount determined under section 8.5 of this chapter for the calendar year preceding the calendar year in which property taxes are first due and payable by two (2).

(3) The gross assessed value of the homestead on the assessment date for which property taxes are imposed is less than one hundred sixty thousand dollars ($160,000).

SECTION 221. IC 6-1.1-20.6-4, AS AMENDED BY P.L.162-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. As used in this chapter, ~~"qualified~~ "residential property" refers to ~~any of the following that a county fiscal body specifically makes eligible for a credit under this chapter in an ordinance adopted under section 6 of this chapter and to all the following for purposes of section 6.5 of this chapter:~~

~~(1) An apartment complex.~~

~~(2) A homestead.~~

~~(3) Residential rental property.~~

real property that consists of any of the following:

(1) A single family dwelling that is not part of a homestead and the land, not exceeding one (1) acre, on which the dwelling is located.

(2) Real property that consists of:

(A) a building that includes two (2) or more dwelling units;

(B) any common areas shared by the dwelling units; and

(C) the land, not exceeding the area of the building footprint, on which the building is located.

(3) Land rented or leased for the placement of a manufactured home or mobile home.

SECTION 222. IC 6-1.1-20.6-7, AS AMENDED BY P.L.224-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 7. (a) **This subsection expires January 1, 2009.** In the case of a credit authorized under section 6 of this chapter or provided by section 6.5(a) or 6.5(b) of this chapter for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to

(A) the person's qualified residential property located in the county, in the case of a calendar year before 2008; or

(B) the person's homestead. (as defined in IC 6-1.1-20.9-1) property located in the county, in the case of a calendar year after 2007 and before ~~2010;~~ **2009;** and

(2) the amount of the credit is the amount by which the person's property tax liability attributable to

(A) the person's qualified residential property, in the case of a calendar year before 2008; or

(B) the person's homestead property, in the case of a calendar year after 2007 and before ~~2010;~~ **2009;**

for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the qualified residential property (in the case of a calendar year before 2008) or the person's homestead property (in the case of a calendar year after 2007 and before ~~2010)~~ **2009)** for property taxes first due and payable in that calendar year, as adjusted under subsection ~~(c).~~ **(b).**

~~(b) In the case of a credit provided by section 6.5(c) of this chapter for property taxes first due and payable in a calendar year:~~

~~(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's real property and personal property located in the county; and~~

~~(2) the amount of the credit is equal to the following:~~

~~(A) In the case of property tax liability attributable to the person's~~

~~homestead property; the amount of the credit is the amount by which the person's property tax liability attributable to the person's homestead property for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the homestead property for property taxes first due and payable in that calendar year, as adjusted under subsection (c).~~

~~(B) In the case of property tax liability attributable to property other than homestead property, the amount of the credit is the amount by which the person's property tax liability attributable to the person's real property (other than homestead property) and personal property for property taxes first due and payable in that calendar year exceeds three percent (3%) of the gross assessed value that is the basis for determination of property taxes on the real property (other than homestead property) and personal property for property taxes first due and payable in that calendar year, as adjusted under subsection (c).~~

~~(c)~~ **(b) This subsection expires January 1, 2009.** This subsection applies to property taxes first due and payable ~~after December 31, 2007,~~ **in 2008.** The amount of a credit to which a person is entitled under subsection (a) ~~or (b)~~ in a county shall be ~~adjusted as~~ determined ~~in STEP FIVE of the following STEPS:~~

~~STEP ONE: Determine the total amount of the person's property tax liability described in subsection (a)(1) or (b)(1) (as applicable) that is for tuition support levy property taxes.~~

~~STEP TWO: Determine the total amount of the person's property tax liability described in subsection (a)(1) or (b)(1) (as applicable).~~

~~STEP THREE: Determine the result of:~~

~~(A) the STEP TWO amount; minus~~

~~(B) the STEP ONE amount.~~

~~STEP FOUR: Determine the result of:~~

~~(A) the STEP THREE amount; divided by~~

~~(B) the STEP TWO amount.~~

~~STEP FIVE: Multiply the credit to which the person is entitled under subsection (a) or (b) by the STEP FOUR amount.~~ **without including a taxpayer's property tax liability for tuition support.**

Notwithstanding any other provision of this chapter, a school corporation's tuition support property tax levy collections may not be reduced because of a credit under this chapter.

(c) This subsection applies to property taxes first due and payable in 2009. A person is entitled to a credit against the person's property tax liability for property taxes first due and payable in 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

(1) homestead exceeds one and five-tenths percent (1.5%);

(2) residential property exceeds two and five-tenths percent (2.5%);

(3) long term care property exceeds two and five-tenths percent (2.5%);

(4) agricultural land exceeds two and five-tenths percent (2.5%);

(5) nonresidential real property exceeds three and five-tenths percent (3.5%); or

(6) personal property exceeds three and five-tenths percent (3.5%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

(d) This subsection applies to property taxes first due and payable in 2009. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

(e) This subsection applies to property taxes first due and payable in 2009. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

SECTION 223. IC 6-1.1-20.6-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7.5. (a) A person is entitled to a credit against the person's property tax liability for property taxes first due and payable after 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:**

(1) homestead exceeds one percent (1%);

(2) residential property exceeds two percent (2%);

(3) long term care property exceeds two percent (2%);

(4) agricultural land exceeds two percent (2%);

(5) nonresidential real property exceeds three percent (3%); or

(6) personal property exceeds three percent (3%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

(b) This subsection applies to property taxes first due and payable after 2009. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

(c) This subsection applies to property taxes first due and payable after 2009. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

SECTION 224. IC 6-1.1-20.6-8, AS AMENDED BY P.L.162-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **Except as provided in section 8.5 of this chapter,** a person is not required to file an application for the credit under this chapter. The county auditor shall:

(1) identify the property in the county eligible for the credit under this chapter; and

(2) apply the credit under this chapter to property tax liability on the identified property.

SECTION 225. IC 6-1.1-20.6-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) This section applies to property taxes first due and payable for a calendar year after December 31, 2008. This section applies to an individual who:**

(1) qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year (or was married at the time of death to a deceased spouse who qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's

homestead property in the immediately preceding calendar year); and

(2) qualifies for a standard deduction granted under IC 6-1.1-12-37 for the same homestead property in the current calendar year.

(b) An individual is entitled to an additional credit under this section for property taxes first due and payable for a calendar year on a homestead if the homestead qualifies as qualified homestead property for the calendar year and the filing requirements under subsection (e) are met.

(c) The amount of the credit is equal to the greater of zero (0) or the result of:

(1) the property tax liability first due and payable on the qualified homestead property for the calendar year; minus

(2) the result of:

(A) the property tax liability first due and payable on the qualified homestead property for the immediately preceding year; multiplied by

(B) one and two hundredths (1.02).

However, property tax liability imposed on any improvements to or expansion of the homestead property after the assessment date for which property tax liability described in subdivision (2) was imposed shall not be considered in determining the credit granted under this section in the current calendar year.

(d) The following adjusted gross income limits apply to an individual who claims a credit under this section:

(1) In the case of an individual who files a single return, the adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual claiming the exemption may not exceed thirty thousand dollars ($30,000).

(2) In the case of an individual who files a joint income tax return with the individual's spouse, the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual and the individual's spouse may not exceed forty thousand dollars ($40,000).

(e) Applications for a credit under this section shall be filed in the manner provided for an application for a deduction under IC 6-1.1-12-9. However, an individual who remains eligible for the credit in the following year is not required to file a statement to apply for the credit in the following year. An individual who receives a

credit under this section in a particular year and who becomes ineligible for the credit in the following year shall notify the auditor of the county in which the homestead is located of the individual's ineligibility before June 11 of the year in which the individual becomes ineligible.

(f) The auditor of each county shall, in a particular year, apply a credit provided under this section to each individual who received the credit in the preceding year unless the auditor determines that the individual is no longer eligible for the credit.

SECTION 226. IC 6-1.1-20.6-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) As used in this section, "debt service obligations of a political subdivision" refers to:**

(1) the principal and interest payable during a calendar year on bonds; and

(2) lease rental payments payable during a calendar year on leases;

of a political subdivision payable from ad valorem property taxes.

(b) Political subdivisions are required by law to fully fund the payment of their debt obligations in an amount sufficient to pay any debt service or lease rentals on outstanding obligations, regardless of any reduction in property tax collections due to the application of tax credits granted under this chapter. Any reduction in collections must be applied to the other funds of the political subdivision after debt service or lease rentals have been fully funded.

(c) Upon the failure of a political subdivision to pay any of the political subdivision's debt service obligations during a calendar year when due, the treasurer of state, upon being notified of the failure by a claimant, shall pay the unpaid debt service obligations that are due from money in the possession of the state that would otherwise be available for distribution to the political subdivision under any other law, deducting the payment from the amount distributed. A deduction under this subsection must be made:

(1) first from distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, or county economic development income tax distributions under IC 6-3.5-7 that would otherwise be distributed to the county under the schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16, IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and

(2) second from any other undistributed funds of the political subdivision in the possession of the state.

(d) This section shall be interpreted liberally so that the state shall to the extent legally valid ensure that the debt service obligations of each political subdivision are paid when due. However, this section does not create a debt of the state.

SECTION 227. IC 6-1.1-20.6-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11. The county auditor of each county shall certify to the department of local government finance:**

(1) the total amount of credits that are allowed under this chapter in the county for the calendar year; and

(2) the amount that each taxing unit's distribution of property taxes will be reduced under section 9.5 of this chapter as a result of the granting of the credits.

If the amount of credits granted changes after the date the certification is made, the county auditor shall submit an amended certification to the department of local government finance. The initial certification and the amended certifications shall be submitted to the department of local government finance on the schedule prescribed by the department of local government finance.

SECTION 228. IC 6-1.1-20.6-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. For purposes of computing and distributing after 2008 any excise taxes or local option income taxes for which the distribution is based on the amount of a taxing unit's property tax levy, the computation and distribution of the excise tax or local option income tax shall be based on the taxing unit's property tax levy as calculated before any reduction due to credits provided to taxpayers under this chapter.**

SECTION 229. IC 6-1.1-20.9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements which an individual uses as his residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence which:

(A) is located in Indiana;

(B) the individual: ~~either~~

(i) owns; ~~or~~

(ii) is buying under a contract, recorded in the county recorder's office, that provides that ~~he~~ **the individual** is to pay the property taxes on the residence; **or**

(iii) is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); and

(C) consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 230. IC 6-1.1-21-4, AS AMENDED BY HEA 1137-2008, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer

from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or, except as provided in section 9 of this chapter, receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (g) and subject to subsection (h), the department shall not distribute under subsection (b) and section 10 of this chapter a percentage, determined by the department, of the money that would otherwise be distributed to the county under subsection (b) and

section 10 of this chapter if:

(1) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section;

(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(4) the county ~~assessor~~ **auditor** has not forwarded to the department of local government finance in a timely manner sales disclosure form data under IC 6-1.1-5.5-3(c);

(5) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(6) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(7) the ~~elected~~ township assessors in the county **(if any),** the ~~elected~~ township assessors **(if any)** and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

(f) Except as provided in subsection (i), money not distributed for the reasons stated in subsection (e) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(g) The restrictions on distributions under subsection (e) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

SECTION 231. IC 6-1.1-21.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. As used in this chapter, "allocation area" refers to an area that is established under the authority of any of the following statutes and in which tax increment revenues are collected:

(1) IC 6-1.1-39.

~~(1)~~ **(2)** IC 8-22-3.5.

~~(2)~~ **(3)** IC 36-7-14.

~~(3)~~ **(4)** IC 36-7-14.5.

~~(4)~~ **(5)** IC 36-7-15.1.

~~(5)~~ **(6)** IC 36-7-30.

(7) IC 36-7-30.5.

SECTION 232. IC 6-1.1-21.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. As used in this chapter, "base assessed value" means the base assessed value as that term is defined or used in:

(1) IC 6-1.1-39-5(h);

~~(1)~~ **(2)** IC 8-22-3.5-9(a);

(3) IC 8-22-3.5-9.5;

~~(2)~~ **(4)** IC 36-7-14-39(a);

(5) IC 36-7-14-39.2;

~~(3)~~ **(6)** IC 36-7-14-39.3(c);

(7) IC 36-7-14-48;

~~(4)~~ **(8)** IC 36-7-14.5-12.5;

~~(5)~~ **(9)** IC 36-7-15.1-26(a);

~~(6)~~ **(10)** IC 36-7-15.1-26.2(c);

~~(7)~~ **(11)** IC 36-7-15.1-35(a);

(12) IC 36-7-15.1-35.5;

~~(8)~~ **(13)** IC 36-7-15.1-53;

~~(9)~~ **(14)** IC 36-7-15.1-55(c);

~~(10)~~ **(15)** IC 36-7-30-25(a)(2); ~~or~~

~~(11)~~ **(16)** IC 36-7-30-26(c);

(17) IC 36-7-30.5-30; or

(18) IC 36-7-30.5-31.

SECTION 233. IC 6-1.1-21.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. As used in this chapter, "district" refers to **the following:**

(1) An economic development district under IC 6-1.1-39.

~~(1)~~ **(2)** An eligible entity (as defined in IC 8-22-3.5-2.5).

~~(2)~~ **(3)** A redevelopment district, for an allocation area established under:

(A) IC 36-7-14; or

(B) IC 36-7-15.1. ~~or~~

~~(3)~~ **(4)** A special taxing district, as described in:

(A) IC 36-7-14.5-12.5(d); or

(B) IC 36-7-30-3(b).

(5) A military base development area under IC 36-7-30.5-16.

SECTION 234. IC 6-1.1-21.2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. As used in this chapter, "governing body" means the following:

(1) For an allocation area created under IC 6-1.1-39, the fiscal body of the county (as defined in IC 36-1-2-6).

~~(1)~~ **(2)** For an allocation area created under IC 8-22-3.5, the commission (as defined in IC 8-22-3.5-2).

~~(2)~~ **(3)** For an allocation area created under IC 36-7-14, the redevelopment commission.

~~(3)~~ **(4)** For an allocation area created under IC 36-7-14.5, the redevelopment authority.

~~(4)~~ **(5)** For an allocation area created under IC 36-7-15.1, the metropolitan development commission.

~~(5)~~ **(6)** For an allocation area created under IC 36-7-30, the military base reuse authority.

(7) For an allocation area created under IC 36-7-30.5, the military base development authority.

SECTION 235. IC 6-1.1-21.2-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 6.6. As used in this chapter, "obligation" means an obligation to repay:**

(1) the principal and interest on bonds;

(2) lease rentals on leases; or

(3) any other contractual obligation;

payable from tax increment revenues. The term includes a guarantee of repayment from tax increment revenues if other revenues are insufficient to make a payment.

SECTION 236. IC 6-1.1-21.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. As used in this chapter, "property taxes" means:

(1) property taxes, as defined in:

(A) IC 6-1.1-39-5(g);

~~(A)~~ **(B)** IC 36-7-14-39(a);

(C) IC 36-7-14-39.2;

~~(B)~~ **(D)** IC 36-7-14-39.3(c);

(E) IC 36-7-14.5-12.5;

~~(C)~~ **(F)** IC 36-7-15.1-26(a);

~~(D)~~ **(G)** IC 36-7-15.1-26.2(c);

~~(E)~~ **(H)** IC 36-7-15.1-53(a);

~~(F)~~ **(I)** IC 36-7-15.1-55(c);

~~(G)~~ **(J)** IC 36-7-30-25(a)(3); ~~or~~

~~(H)~~ **(K)** IC 36-7-30-26(c); ~~or~~

(L) IC 36-7-30.5-30; or

(M) IC 36-7-30.5-31; or

(2) for allocation areas created under IC 8-22-3.5, the taxes assessed on taxable tangible property in the allocation area.

SECTION 237. IC 6-1.1-21.2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. As used in this chapter, "special fund" means:

(1) the special funds referred to in IC 6-1.1-39-5;

~~(1)~~ **(2)** the special funds referred to in IC 8-22-3.5-9(e);

~~(2)~~ **(3)** the allocation fund referred to in IC 36-7-14-39(b)(2);

~~(3)~~ **(4)** the allocation fund referred to in IC 36-7-14.5-12.5(d);

~~(4)~~ **(5)** the special fund referred to in IC 36-7-15.1-26(b)(2);

~~(5)~~ **(6)** the special fund referred to in IC 36-7-15.1-53(b)(2); ~~or~~

~~(6)~~ **(7)** the allocation fund referred to in IC 36-7-30-25(b)(2); **or**

(8) the allocation fund referred to in IC 36-7-30.5-30(b)(2).

SECTION 238. IC 6-1.1-21.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. (a) ~~Not later than September 1 of a year in which a general reassessment does not become effective,~~ The governing body shall estimate the tax increment replacement amount for each allocation area under the jurisdiction of the governing body for the next calendar year ~~In a year in which a general~~

~~reassessment becomes effective, the department of local government finance may extend the deadline under this subsection by giving written notice to the governing body before the deadline.~~ **on the schedule prescribed by the department of local government finance.**

(b) The tax increment replacement amount is the **greater of zero (0) or the net** amount ~~determined in STEP THREE of the following formula:~~

~~STEP ONE: The governing body shall estimate the amount of tax increment revenues it would receive in the next calendar year if the property tax replacement credits payable with respect to the general fund levies imposed by all school corporations with jurisdiction in the allocation area were determined under IC 6-1.1-21 as in effect on January 1, 2001.~~

~~STEP TWO: The governing body shall estimate the amount of tax increment revenues it will receive in the next calendar year after implementation of the increase in the property tax credits payable under IC 6-1.1-21, as amended by the general assembly in 2002, with respect to general fund levies imposed by all school corporations with jurisdiction in the allocation area.~~

~~STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.~~ **by which:**

(1) laws enacted by the general assembly; and

(2) actions taken by the department of local government finance; after the establishment of the allocation area have decreased the tax increment revenues of the allocation area for the next calendar year (after adjusting for any increases resulting from laws or actions of the department of local government finance) below the sum of the amount needed to make all payments that are due in the next calendar year on obligations payable from tax increment revenues and to maintain any tax increment revenue to obligation payment ratio required by an agreement on which any of the obligations are based.

SECTION 239. IC 6-1.1-21.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) ~~A tax is imposed each year on all taxable property in the district in which the governing body exercises jurisdiction.~~ **This section applies if the tax increment replacement amount for an allocation area in a district is greater than zero (0).**

~~(b) Except as provided in subsections (c) and (d), the tax imposed under this section shall be automatically imposed at a rate sufficient to generate the tax increment replacement amount determined under section 11(b) of this chapter for that year.~~

(b) A governing body may, after a public hearing, do the following:

(1) Impose a special assessment on the owners of property that is located in an allocation area to raise an amount not to exceed the tax increment replacement amount.

(2) Impose a tax on all taxable property in the district in which the governing body exercises jurisdiction to raise an amount not to exceed the tax increment replacement amount.

(3) Reduce the base assessed value of property in the allocation area to an amount that is sufficient to increase the tax increment revenues in the allocation area by an amount that does not exceed the tax increment replacement amount.

(c) **The governing body shall submit a proposed special assessment or tax levy under this section to** the legislative body of the unit that established the district. **The legislative body** may:

(1) reduce the amount of the **special assessment or** tax to be levied under this section; ~~or~~

(2) determine that no **special assessment or property** tax should be levied under this section; **or**

(3) increase the special assessment or tax to the amount necessary to fully fund the tax increment replacement amount.

~~(d) This subsection applies to a district in which the total assessed value of all allocation areas in the district is greater than ten percent (10%) of the total assessed value of the district. Except as provided in section 14(d) of this chapter, a tax levy imposed under this section may not exceed the lesser of:~~

~~(1) the tax increment replacement amount; or~~

~~(2) the amount that will result from the imposition of a rate for the tax levy that the department of local government finance estimates will cause the total tax rate in the district to be one hundred ten percent (110%) of the rate that would apply if the tax levy authorized by this chapter were not imposed for the year.~~

(d) Before a public hearing under subsection (b) may be held, the governing body must publish notice of the hearing under IC 5-3-1. The notice must also be sent to the fiscal officer of each political subdivision that is located in any part of the district. The notice must state that the governing body will meet to consider whether a special assessment or tax should be imposed under this chapter and whether the special assessment or tax will help the governing body realize the redevelopment or economic development objectives for the allocation area or honor its obligations related to the allocation area. The notice

must also specify a date when the governing body will receive and hear remonstrances and objections from persons affected by the special assessment. All persons affected by the hearing, including all taxpayers within the allocation area, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, and orders of the governing body by the notice. At the hearing, which may be adjourned from time to time, the governing body shall hear all persons affected by the proceedings and shall consider all written remonstrances and objections that have been filed. The only grounds for remonstrance or objection are that the special assessment or tax will not help the governing body realize the redevelopment or economic development objectives for the allocation area or honor its obligations related to the allocation area. After considering the evidence presented, the governing body shall take final action concerning the proposed special assessment or tax. The final action taken by the governing body shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by subsection (e).

(e) A person who filed a written remonstrance with a governing body under subsection (d) and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the governing body and the person's remonstrance or objection against that final action, together with a bond conditioned to pay the costs of appeal if the appeal is determined against the person. The only ground of remonstrance or objection that the court may hear is whether the proposed special assessment or tax will help achieve the redevelopment of economic development objectives for the allocation area or honor its obligations related to the allocation area. An appeal under this subsection shall be promptly heard by the court without a jury. All remonstrances or objections upon which an appeal has been taken must be consolidated, heard, and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances or objections and may confirm the final action of the governing body or sustain the remonstrances or objections. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

SECTION 240. IC 6-1.1-21.2-15, AS AMENDED BY P.L.224-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. ~~(a) A tax levied under this chapter shall be~~

~~certified by the department of local government finance to the auditor of the county in which the district is located and shall be:~~

~~(1) estimated and entered upon the tax duplicates by the county auditor; and~~

~~(2) collected and enforced by the county treasurer;~~

~~in the same manner as state and county taxes are estimated, entered, collected, and enforced.~~

~~(b)~~ **(a)** As the **special assessment or** tax **imposed under this chapter** is collected by the county treasurer, it shall be transferred to the governing body and accumulated and kept in the special fund for the allocation area.

~~(c)~~ **(b)** A **special assessment or** tax levied under this chapter

~~(1) is exempt from the levy limitations imposed under IC 6-1.1-18.5; and~~

~~(2)~~ is not subject to IC 6-1.1-20.

~~(d) Notwithstanding any other provision of this chapter or IC 6-1.1-20.6, a governing body may file with the county auditor a certified statement providing that for purposes of computing and applying a credit under IC 6-1.1-20.6 for a particular calendar year, a taxpayer's property tax liability does not include the liability for a tax levied under this chapter. The department of local government finance shall adopt the form of the certified statement that a governing body may file under this subsection. The department of local government finance shall establish procedures governing the filing of a certified statement under this subsection. If a governing body files a certified statement under this subsection, then for purposes of computing and applying a credit under IC 6-1.1-20.6 for the specified calendar year, a taxpayer's property tax liability does not include the liability for a tax levied under this chapter.~~

~~(e)~~ **(c)** A **special assessment or** tax levied under this chapter and the use of revenues from a **special assessment or** tax levied under this chapter by a governing body do not create a constitutional or statutory debt, pledge, or obligation of the governing body, the district, or any ~~unit.~~ **county, city, town, or township.**

SECTION 241. IC 6-1.1-21.2-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 16. (a) This section applies if the tax increment replacement amount for an allocation area in a district is less than zero (0).**

(b) The governing body of a district shall increase the base assessed value of property in the allocation area to an amount sufficient so that the tax increment replacement amount is equal to zero (0).

SECTION 242. IC 6-1.1-21.5-5, AS AMENDED BY P.L.2-2006, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) The board shall determine the terms of a loan made under this chapter. However, interest may not be charged on the loan, and the loan must be repaid not later than ten (10) years after the date on which the loan was made.

(b) The loan shall be repaid only from property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5. ~~or IC 20-45-3.~~ The payment of any installment of principal constitutes a first charge against such property tax revenues as collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay the loan is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5. ~~or IC 20-45-6.~~

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section may not be construed to prevent the qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

SECTION 243. IC 6-1.1-21.5-6, AS AMENDED BY P.L.2-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) The receipt by the qualified taxing unit of the loan proceeds is not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 20-44-3. The receipt by the qualified taxing unit of any payment of delinquent tax owed by a taxpayer in bankruptcy is considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 20-44-3.

(b) The loan proceeds and any payment of delinquent tax may be expended by the qualified taxing unit only to pay debts of the qualified taxing unit that have been incurred pursuant to duly adopted appropriations approved by the department of local government finance for operating expenses.

(c) In the event the sum of the receipts of the qualified taxing unit that

are attributable to:

(1) the loan proceeds; and

(2) the payment of property taxes owed by a taxpayer in a bankruptcy proceeding initially filed in 2000 and payable in 2001;

exceeds sixteen million dollars ($16,000,000), the excess as received during any calendar year or years shall be set aside and treated for the calendar year when received as a levy excess subject to IC 6-1.1-18.5-17 or IC 20-44-3. In calculating the payment of property taxes as provided in subdivision (2), the amount of property tax credit finally allowed under IC 6-1.1-21-5 **(before its repeal)** in respect to such taxes is considered a payment of such property taxes.

(d) As used in this section, "delinquent tax" means any tax owed by a taxpayer in a bankruptcy proceeding initially filed in 2000 and that is not paid during the calendar year for which it was first due and payable.

SECTION 244. IC 6-1.1-21.8-4, AS AMENDED BY P.L.2-2006, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers during the most recent twelve (12) month period for which data is available as of the date that the unit applies for a loan under this chapter. In the case of a qualified taxing unit that is not a school corporation or a public library (as defined in IC 36-12-1-5), a loan must be repaid not later than ten (10) years after the date on which the loan was made. In the case of a qualified taxing unit that is a school corporation or a public library (as defined in IC 36-12-1-5), a loan must be repaid not later than eleven (11) years after the date on which the loan was made. A school corporation or a public library (as defined in IC 36-12-1-5) is not required to begin making payments to repay a loan until after June 30, 2004. The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars ($28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

(1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5; ~~or IC 20-45-3;~~

(2) in the case of a school corporation, the school corporation's debt

service fund; or

(3) any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5. ~~or IC 20-45-6.~~

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

(1) The county adjusted gross income tax under IC 6-3.5-1.1.

(2) The county option income tax under IC 6-3.5-6.

(3) The county economic development income tax under IC 6-3.5-7.

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

SECTION 245. IC 6-1.1-21.8-5, AS AMENDED BY P.L.2-2006, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The maximum amount that the board may loan to a qualified taxing unit is determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of the taxpayer's property taxes due and payable in November 2001 that are attributable to the qualified taxing unit as determined by the department of local government finance.

STEP TWO: Multiply the STEP ONE amount by one and thirty-one thousandths (1.031).

STEP THREE: Multiply the STEP TWO product by two (2).

STEP FOUR: Add the STEP ONE amount to the STEP THREE product.

However, in the case of a qualified taxing unit that is a school corporation, the amount determined under STEP FOUR shall be reduced by the board to the extent that the school corporation receives relief in the form of adjustments to the school corporation's assessed valuation under ~~IC 20-45-4-7 or~~ IC 6-1.1-17-0.5 **or IC 6-1.1-19-5.3.**

SECTION 246. IC 6-1.1-21.8-6, AS AMENDED BY P.L.2-2006, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) As used in this section, "delinquent tax" means any tax:

(1) owed by a taxpayer in a bankruptcy proceeding initially filed in 2001; and

(2) not paid during the calendar year in which it was first due and payable.

(b) Except as provided in subsection (d), the proceeds of a loan received by the qualified taxing unit under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 20-44-3. The receipt by a qualified taxing unit of any payment of delinquent tax owed by a taxpayer in bankruptcy is considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 20-44-3.

(c) The proceeds of a loan made under this chapter must first be used to retire any outstanding loans made by the department of commerce (including any loans made by the department of commerce that are transferred to the Indiana economic development corporation) to cover a qualified taxing unit's revenue shortfall resulting from the taxpayer's default on property tax payments. Any remaining proceeds of a loan made under this chapter and any payment of delinquent taxes by the taxpayer may be expended by the qualified taxing unit only to pay obligations of the qualified taxing unit that have been incurred under appropriations for operating expenses made by the qualified taxing unit and approved by the department of local government finance.

(d) If the sum of the receipts of a qualified taxing unit that are attributable to:

(1) the loan proceeds; and

(2) the payment of property taxes owed by a taxpayer in a bankruptcy proceeding and payable in November 2001, May 2002,

or November 2002;

exceeds the sum of the taxpayer's property tax liability attributable to the qualified taxing unit for property taxes payable in November 2001, May 2002, and November 2002, the excess as received during any calendar year or years shall be set aside and treated for the calendar year when received as a levy excess subject to IC 6-1.1-18.5-17 or IC 20-44-3. In calculating the payment of property taxes as referred to in subdivision (2), the amount of property tax credit finally allowed under IC 6-1.1-21-5 **(before its repeal)** in respect to those taxes is considered to be a payment of those property taxes.

SECTION 247. IC 6-1.1-21.9-3, AS ADDED BY P.L.114-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The board, not later than December 31, ~~2007,~~ **2009,** and after review by the budget committee, shall determine the terms of a loan made under this chapter, subject to the following:

(1) The board may not charge interest on the loan.

(2) The loan must be repaid not later than ten (10) years after the date on which the loan was made.

(3) The terms of the loan must allow for prepayment of the loan without penalty.

(4) The maximum amount of the loan that a qualifying taxing unit may receive with respect to a default described in section 1(c)(3) of this chapter on one (1) or more payments of property taxes first due and payable in a calendar year is the amount, as determined by the board, of revenue shortfall for the qualifying taxing unit that results from the default for that calendar year.

(5) The total amount of all loans under this chapter for all calendar years may not exceed thirteen million dollars ($13,000,000).

(b) The board may disburse in installments the proceeds of a loan made under this chapter.

(c) A qualified taxing unit may repay a loan made under this chapter from any of the following:

(1) Property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or **(before January 1, 2009)** IC 6-1.1-19.

(2) Property tax revenues of the qualified taxing unit that are not subject to levy limitations as provided in IC 6-1.1-18.5-21 or **(before January 1, 2009)** IC 6-1.1-19-13.

(3) The qualified taxing unit's debt service fund.

(4) Any other source of revenues (other than property taxes) that is

legally available to the qualified taxing unit.

The payment of any installment on a loan made under this chapter constitutes a first charge against the property tax revenues described in subdivision (1) or (2) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(d) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or **(before January 1, 2009)** IC 6-1.1-19.

(e) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

SECTION 248. IC 6-1.1-21.9-4, AS ADDED BY P.L.114-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) As used in this section, "delinquent tax" means any tax not paid during the calendar year in which the tax was first due and payable.

(b) Except as provided in subsection (c), the following are not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and ~~IC 6-1.1-19-1.7:~~ **IC 20-44-2.**

(1) The proceeds of a loan received by the qualified taxing unit under this chapter.

(2) The receipt by a qualified taxing unit of any payment of delinquent tax owed by a qualified taxpayer.

(c) Delinquent tax owed by a qualified taxpayer received by a qualified taxing unit:

(1) must first be used toward the retirement of an outstanding loan made under this chapter; and

(2) is considered, only to the extent that the amount received exceeds the amount of the outstanding loan, to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and ~~IC 6-1.1-19-1.7:~~ **IC 20-44-2.**

(d) If a qualified taxpayer pays delinquent tax during the term of repayment of an outstanding loan made under this chapter, the remaining loan balance is repayable in equal installments over the remainder of the original term of repayment.

(e) Proceeds of a loan made under this chapter may be expended by a

qualified taxing unit only to pay obligations of the qualified taxing unit that have been incurred under appropriations for operating expenses made by the qualified taxing unit and approved by the department of local government finance.

SECTION 249. IC 6-1.1-22-3, AS AMENDED BY P.L.67-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), the auditor of each county shall, before March 15 of each year, prepare a roll of property taxes payable in that year for the county. This roll shall be known as the "tax duplicate" and shall show:

(1) the value of all the assessed property of the county;

(2) the person liable for the taxes on the assessed property; and

(3) any other information that the state board of accounts, with the advice and approval of the department of local government finance, may prescribe.

(b) If the county auditor receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g)~~ **IC 6-1.1-18.5-12(d)** before the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall complete preparation of the tax duplicate when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g)~~ **IC 6-1.1-18.5-12(d)** after the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall prepare a revised tax duplicate when the appeal is resolved by the department of local government finance that reflects the action of the department.

(d) The county auditor shall comply with the instructions issued by the state board of accounts for the preparation, preservation, alteration, and maintenance of the tax duplicate. The county auditor shall deliver a copy of the tax duplicate prepared under subsection (a) to the county treasurer when preparation of the tax duplicate is completed.

SECTION 250. IC 6-1.1-22-5, AS AMENDED BY P.L.67-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) Except as provided in subsections (b) and (c), on or before March 15 of each year, the county auditor shall prepare and deliver to the auditor of state and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. The county auditor shall prepare the abstract in such a manner that

the information concerning property tax deductions reflects the total amount of each type of deduction. The abstract shall also contain a statement of the taxes and penalties unpaid in each taxing unit at the time of the last settlement between the county auditor and county treasurer and the status of these delinquencies. The county auditor shall prepare the abstract on the form prescribed by the state board of accounts. The auditor of state, county auditor, and county treasurer shall each keep a copy of the abstract as a public record.

(b) If the county auditor receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g)~~ **IC 6-1.1-18.5-12(d)** before the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver the certified copy of the abstract when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g)~~ **IC 6-1.1-18.5-12(d)** after the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver a certified copy of a revised abstract when the appeal is resolved by the department of local government finance that reflects the action of the department.

SECTION 251. IC 6-1.1-22-8.1, AS ADDED BY P.L.162-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.1. (a) This section applies only to property taxes and special assessments first due and payable after December 31, 2007.

(b) The county treasurer shall:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; and

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records;

a statement in the form required under subsection (c). **However, for property taxes first due and payable in 2008, the county treasurer may choose to use a tax statement that is different from the tax statement prescribed by the department under subsection (c). If a county chooses to use a different tax statement, the county must still transmit (with**

the tax bill) the statement in either color type or black-and-white type.

(c) The department of local government finance shall prescribe a form, subject to the approval of the state board of accounts, for the statement under subsection (b) that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or a petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (b).

(d) The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(e) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(f) The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection (c).

(g) The information to be included in the statement under subsection (c) must be simply and clearly presented and understandable to the average individual.

(h) After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 shall be treated as a reference to this section.

SECTION 252. IC 6-1.1-22-9, AS AMENDED BY HEA1137-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Except as provided in subsections (b) and (c) the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

(1) Subsection (c).
(2) Subsection (d).
(3) Subsection (h).
(4) Subsection (i).
(5) IC 6-1.1-7-7.
(6) Section 9.5 of this chapter.

(c) A county council may adopt an ordinance to require a person to pay

the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars ($25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8.1 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars ($25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under ~~IC 6-1.1-18.5-12(g)~~ **IC 6-1.1-18.5-12(d)** before the county treasurer mails or transmits statements under section 8.1(b) of this chapter, the county treasurer may:

(1) mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or

(2) delay the mailing or transmission of statements under section 8.1(b) of this chapter so that:

(A) the due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and

(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

(1) the total amount due for the year;

(2) the total amount of the installments paid that did not reflect the resolution of the appeal under ~~IC 6-1.1-18.5-12(g)~~ **IC 6-1.1-18.5-12(d)** by the department of local government finance;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount that is payable by the taxpayer:

(A) as a final reconciliation of all amounts due for the year; and

(B) not later than:

(i) November 10; or

(ii) the date or dates established under section 9.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(f) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(g) Notwithstanding any other law, a property tax liability of less than five dollars ($5) is increased to five dollars ($5). The difference between the actual liability and the five dollar ($5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

~~(h) If in a county the notices of general reassessment under IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an assessment date in a calendar year are given to the taxpayers in the county after March 26 of the immediately succeeding calendar year, the property taxes that would otherwise be due under subsection (a) on May 10 of the immediately succeeding calendar year are due on the later of:~~

~~(1) May 10 of the immediately succeeding calendar year; or~~

~~(2) forty-five (45) days after the notices are given to taxpayers in the county.~~

~~(i) If subsection (h) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (h) are due on the later of:~~

~~(1) November 10 of the immediately succeeding calendar year; or~~

~~(2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.~~

SECTION 253. IC 6-1.1-22-9.5, AS AMENDED BY HEA1137-2008, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:

(1) with respect to a homestead (as defined in ~~IC 6-1.1-20.9-1);~~ **IC 6-1.1-12-37);** and

(2) that are not payable in one (1) installment under section 9(c) of this chapter.

(b) At any time before the mailing or transmission of tax statements for a year under section 8.1 of this chapter, a county may petition the department of local government finance to establish a schedule of installments for the payment of property taxes with respect to:

(1) real property that are based on the assessment of the property in the immediately preceding year; or

(2) a mobile home or manufactured home that is not assessed as real property that are based on the assessment of the property in the current year.

The county fiscal body (as defined in IC 36-1-2-6) must approve a petition under this subsection.

(c) The department of local government finance:

(1) may not establish a date for:

(A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;

(B) the first installment payment that is later than November 10 of the year in which the tax statement is mailed or transmitted; or

(C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and

(2) shall:

(A) prescribe the form of the petition under subsection (b);

(B) determine the information required on the form; and

(C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under section 8.1 of this chapter:

(1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 20-44-3 for the year in which the property taxes are paid; and

(2) may be:

(A) used to repay temporary loans entered into by a political subdivision for; and

(B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under section 8.1 of this chapter.

SECTION 254. IC 6-1.1-22.5-12, AS AMENDED BY P.L.219-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided by subsection (c), each reconciling statement must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) thirty (30) days after the date of the reconciling statement; ~~or~~

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; **or**

(iii) the date specified in an ordinance adopted under section 18.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract referred to in section 6 of this chapter, the county treasurer determines that it is possible to complete the:

(1) preparation; and

(2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the second installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the second installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount of the first installment paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the second installment that is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) November 10; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

SECTION 255. IC 6-1.1-22.5-18, AS AMENDED BY P.L.219-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. For purposes of IC 6-1.1-24-1(a)(1):

(1) the first installment on a provisional statement is considered to be the taxpayer's spring installment of property taxes;

(2) except as provided in subdivision (3) **or section 18.5 of this chapter,** payment on a reconciling statement is considered to be due before the due date of the first installment of property taxes payable in the following year; and

(3) payment on a reconciling statement described in section 12(b) of this chapter is considered to be the taxpayer's fall installment of property taxes.

SECTION 256. IC 6-1.1-22.5-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) A county council may adopt an ordinance to allow a taxpayer to make installment payments under this section of a tax payment due under a reconciling statement issued under this chapter or any other provision.**

(b) An ordinance adopted under this section must specify:

(1) the reconciling statement to which the ordinance applies; and

(2) the installment due dates for taxpayers that choose to make installment payments.

(c) An ordinance adopted under this section must give taxpayers in the county the option of:

(1) making a single payment of the tax payment due under the reconciling statement on the date specified in the reconciling statement; or

(2) paying installments of the tax payment due under the reconciling statement over the installment period specified in the ordinance.

(d) If the total amount due on an installment date under this section is not completely paid on or before that installment date, the amount unpaid is considered delinquent and a penalty is added to the unpaid amount. The penalty is equal to an amount determined as follows:

(1) If:

(A) the delinquent amount of real property taxes is completely paid on or before the date thirty (30) days after the

installment date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel;

the amount of the penalty is equal to five percent (5%) of the delinquent amount.

(2) If:

(A) the delinquent amount of personal property taxes is completely paid on or before the date thirty (30) days after the installment date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to five percent (5%) of the delinquent amount.

(3) If neither subdivision (1) nor (2) applies, the amount of the penalty is equal to ten percent (10%) of the delinquent amount.

(e) An additional penalty equal to ten percent (10%) of any taxes due on an installment date that remain unpaid shall be added on the day immediately following the date of the final installment payment.

(f) The penalties under this section are imposed on only the principal amount of the delinquent taxes.

(g) Notwithstanding any other provision, an ordinance adopted under this section may apply to the payment of amounts due under any reconciling statements issued by a county.

(h) Approval by the department of local government finance is not required for the adoption of an ordinance under this section.

SECTION 257. IC 6-1.1-23-1, AS AMENDED BY P.L.214-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Annually, after November 10th but before August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

(1) by registered or certified mail;

(2) in person by the county treasurer or the county treasurer's agent; or

(3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

(1) a statement that the taxpayer is delinquent in the payment of personal property taxes;

(2) the amount of the delinquent taxes;

(3) the penalties due on the delinquent taxes;

(4) the collection expenses which the taxpayer owes; and

(5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) has an assessed value of at least three thousand two hundred dollars ($3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the

transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

(1) the name and address of the debtor; and

(2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11 and must require the following information:

(1) The name and address of the debtor as identified by the creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that ~~IC 6-1.1-23-1~~ **this section** requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the amount of delinquent personal property taxes owed as determined under subsection (d) on the personal property in the amount identified on

this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not later than fourteen (14) days after the date the creditor requests the delinquent personal property tax form. The county **assessor** and **the** township assessors **(if any)** shall assist the county treasurer in determining the appropriate assessed value of the personal property and the amount of delinquent personal property taxes owed on the personal property. Assistance provided by the county **assessor** and **the** township assessors **(if any)** must include providing the county treasurer with relevant personal property forms filed with the **assessor or** assessors and providing the county treasurer with any other assistance necessary to accomplish the purposes of this section.

SECTION 258. IC 6-1.1-24-2, AS AMENDED BY P.L.89-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to the delinquency list required under section 1 of this chapter, each county auditor shall prepare a notice. The notice shall contain the following:

(1) A list of tracts or real property eligible for sale under this chapter.

(2) A statement that the tracts or real property included in the list will be sold at public auction to the highest bidder, subject to the right of redemption.

(3) A statement that the tracts or real property will not be sold for an amount which is less than the sum of:

(A) the delinquent taxes and special assessments on each tract or item of real property;

(B) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, whether or not they are delinquent;

(C) all penalties due on the delinquencies;

(D) an amount prescribed by the county auditor that equals the sum of:

(i) the greater of twenty-five dollars ($25) or postage and publication costs; and

(ii) any other actual costs incurred by the county that are directly attributable to the tax sale; and

(E) any unpaid costs due under subsection (b) from a prior tax sale.

(4) A statement that a person redeeming each tract or item of real property after the sale must pay:

(A) one hundred ten percent (110%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed not more than six (6) months after the date of sale;

(B) one hundred fifteen percent (115%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed more than six (6) months after the date of sale;

(C) the amount by which the purchase price exceeds the minimum bid on the tract or item of real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid; and

(D) all taxes and special assessments on the tract or item of real property paid by the purchaser after the tax sale plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property.

(5) A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, **or the county assessor if there is no township assessor for the township,** upon written request from the county auditor, shall provide the information to be in the notice required by this subsection. A misstatement in the key number or street address does not invalidate an otherwise valid sale.

(6) A statement that the county does not warrant the accuracy of the street address or common description of the property.

(7) A statement indicating:

(A) the name of the owner of each tract or item of real property with a single owner; or

(B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.

(8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:

(A) A statement:

(i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment

against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and

(ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.

(B) A statement that any defense to the application for judgment must be:

(i) filed with the court; and

(ii) served on the county auditor and the county treasurer;

before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the county auditor and the county treasurer are entitled to receive all pleadings, motions, petitions, and other filings related to the defense to the application for judgment.

(D) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Whenever the public auction is to be conducted as an electronic sale, the notice must include a statement indicating that the public auction will be conducted as an electronic sale and a description of the procedures that must be followed to participate in the electronic sale.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that tracts or items will be sold together.

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 259. IC 6-1.1-25-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.1. (a) If, as provided in ~~section 4(f)~~ **section 4(h)** of this chapter, the county auditor does not issue a deed to the county for property for which a certificate of sale has been issued to the county under IC 6-1.1-24-9 because the county executive determines that the property contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property, the property may be transferred consistent with ~~the provisions of~~ this section.

(b) A person who desires to obtain title to and eliminate the hazardous conditions of property containing hazardous waste or another environmental hazard for which a county holds a certificate of sale but to which a deed may not be issued to the county under ~~section 4(f)~~ **section 4(h)** of this chapter may file a petition with the county auditor seeking a waiver of the delinquent taxes, special assessments, interest, penalties, and costs assessed against the property and transfer of the title to the property to the petitioner. The petition must:

(1) be on a form prescribed by the state board of accounts and approved by the department of local government finance;

(2) state the amount of taxes, special assessments, penalties, and costs assessed against the property for which a waiver is sought;

(3) describe the conditions existing on the property that have prevented the sale or the transfer of title to the county;

(4) describe the plan of the petitioner for elimination of the hazardous condition on the property under IC 13-25-5 and the intended use of the property; and

(5) be accompanied by a fee established by the county auditor for completion of a title search and processing.

(c) Upon receipt of a petition described in subsection (b), the county auditor shall review the petition to determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. Upon receipt of a completed petition, the county auditor shall forward a copy of the petition to:

(1) the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township;**

(2) the owner;

(3) all persons who have, as of the date of the filing of the petition, a substantial interest of public record in the property;

(4) the county property tax assessment board of appeals; and

(5) the department of local government finance.

(d) Upon receipt of a petition described in subsection (b), the county property tax assessment board of appeals shall, at the county property tax assessment board of appeals' earliest opportunity, conduct a public hearing on the petition. The county property tax assessment board of appeals shall, by mail, give notice of the date, time, and place fixed for the hearing to:

(1) the petitioner;

(2) the owner;

(3) all persons who have, as of the date the petition was filed, a substantial interest of public record in the property; and

(4) the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township.**

In addition, notice of the public hearing on the petition shall be published one (1) time at least ten (10) days before the hearing in a newspaper of countywide circulation and posted at the principal office of the county property tax assessment board of appeals, or at the building where the

meeting is to be held.

(e) After the hearing and completion of any additional investigation of the property or of the petitioner that is considered necessary by the county property tax assessment board of appeals, the county board shall give notice, by mail, to the parties listed in subsection (d) of the county property tax assessment board of appeals' recommendation as to whether the petition should be granted. The county property tax assessment board of appeals shall forward to the department of local government finance a copy of the county property tax assessment board of appeals' recommendation and a copy of the documents submitted to or collected by the county property tax assessment board of appeals at the public hearing or during the course of the county board of appeals' investigation of the petition.

(f) Upon receipt by the department of local government finance of a recommendation by the county property tax assessment board of appeals, the department of local government finance shall review the petition and all other materials submitted by the county property tax assessment board of appeals and determine whether to grant the petition. Notice of the determination by the department of local government finance and the right to seek an appeal of the determination shall be given by mail to:

(1) the petitioner;

(2) the owner;

(3) all persons who have, as of the date the petition was filed, a substantial interest of public record in the property;

(4) the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township;** and

(5) the county property tax assessment board of appeals.

(g) Any person aggrieved by a determination of the department of local government finance under subsection (f) may file an appeal seeking additional review by the department of local government finance and a public hearing. In order to obtain a review under this subsection, the aggrieved person must file a petition for appeal with the county auditor in the county where the tract or item of real property is located not more than thirty (30) days after issuance of notice of the determination of the department of local government finance. The county auditor shall transmit the petition for appeal to the department of local government finance not more than ten (10) days after the petition is filed.

(h) Upon receipt by the department of local government finance of an appeal, the department of local government finance shall set a date, time,

and place for a hearing. The department of local government finance shall give notice, by mail, of the date, time, and place fixed for the hearing to:

(1) the person filing the appeal;

(2) the petitioner;

(3) the owner;

(4) all persons who have, as of the date the petition was filed, a substantial interest of public record in the property;

(5) the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township;** and

(6) the county property tax assessment board of appeals.

The department of local government finance shall give the notices at least ten (10) days before the day fixed for the hearing.

(i) After the hearing, the department of local government finance shall give the parties listed in subsection (h) notice by mail of the final determination of the department of local government finance.

(j) If the department of local government finance decides to:

(1) grant the petition submitted under subsection (b) after initial review of the petition under subsection (f) or after an appeal under subsection (h); and

(2) waive the taxes, special assessments, interest, penalties, and costs assessed against the property;

the department of local government finance shall issue to the county auditor an order directing the removal from the tax duplicate of the taxes, special assessments, interest, penalties, and costs for which the waiver is granted.

(k) After:

(1) at least thirty (30) days have passed since the issuance of a notice by the department of local government finance to the county property tax assessment board of appeals granting a petition filed under subsection (b), if no appeal has been filed; or

(2) not more than thirty (30) days after receipt by the county property tax assessment board of appeals of a notice of a final determination of the department of local government finance granting a petition filed under subsection (b) after an appeal has been filed and heard under subsection (h);

the county auditor shall file a verified petition and an application for an order on the petition in the court in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed to the real property. The petition shall contain the certificate of sale issued

to the county, a copy of the petition filed under subsection (b), and a copy of the notice of the final determination of the department of local government finance directing the county auditor to remove the taxes, interest, penalties, and costs from the tax duplicate. Notice of the filing of the petition and application for an order on the petition shall be given, by mail, to the owner and any person with a substantial interest of public record in the property. A person owning or having an interest in the property may appear to object to the petition.

(l) The court shall enter an order directing the county auditor to issue a tax deed to the petitioner under subsection (b) if the court finds that the following conditions exist:

(1) The time for redemption has expired.

(2) The property has not been redeemed before the expiration of the period of redemption specified in section 4 of this chapter.

(3) All taxes, special assessments, interest, penalties, and costs have been waived by the department of local government finance or, to the extent not waived, paid by the petitioner under subsection (b).

(4) All notices required by this section and sections 4.5 and 4.6 of this chapter have been given.

(5) The petitioner under subsection (b) has complied with all the provisions of law entitling the petitioner to a tax deed.

(m) A tax deed issued under this section is uncontestable except by appeal from the order of the court directing the county auditor to issue the tax deed. The appeal must be filed not later than sixty (60) days after the date of the court's order.

SECTION 260. IC 6-1.1-29-2, AS AMENDED BY P.L.224-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~(a)~~ The seven (7) members of the county board of tax adjustment shall be appointed before April 15th of each year, and their appointments shall continue in effect until April 15th of the following year. The four (4) freehold members of the county board of tax adjustment may not be, or have been during the year preceding their appointment, an official or employee of a political subdivision. The four (4) freehold members shall be appointed in such a manner that no more than four (4) of the board members are members of the same political party. ~~This subsection expires December 31, 2008.~~

~~(b) The following apply, notwithstanding any other provision:~~

~~(1) A member may not be appointed to a county board of tax adjustment after December 31, 2008.~~

~~(2) The term of a member of a county board of tax adjustment~~

~~serving on December 31, 2008, expires on December 31, 2008.~~

~~(3) Each county board of tax adjustment is abolished on December 31, 2008.~~

~~(c) On or before December 31 of 2008 and each even-numbered year thereafter, each person or entity required to make an appointment to a county board of tax and capital projects review under section 1.5 of this chapter shall make the required appointment or appointments of members who will represent the person or entity on the county board of tax and capital projects review. The appointments take effect January 1 of the following odd-numbered year and continue in effect until December 31 of the following even-numbered year. If a member is to be appointed by one (1) entity, the appointment must be made by a majority vote of the fiscal body in official session. If a member is to be appointed by more than one (1) entity, the appointment must be made by a majority vote of the total members of the entities taken in joint session. If:~~

~~(1) a person or entity fails; or~~

~~(2) the entities, in the case of a joint appointment, fail;~~

~~to make a required appointment of a member by December 31 of an even-numbered year, the county fiscal body shall make the appointment.~~

~~(d) This subsection does not apply to a county containing a consolidated city. At the general election in 2008 and every four (4) years thereafter, the voters of each county shall under IC 3-11-2-12.8 elect two (2) individuals who are residents of the county as members of the county board of tax and capital projects review. The term of office of a member elected under this subsection begins January 1 of the year following the member's election and ends December 31 of the fourth year following the member's election. The two (2) members who are elected for a position on the county board of tax and capital projects review are determined as follows:~~

~~(1) The members shall be elected on a nonpartisan basis.~~

~~(2) Each prospective candidate must file a nomination petition with the county election board not earlier than one hundred four (104) days and not later than noon seventy-four (74) days before the election at which the members are to be elected. The nomination petition must include the following information:~~

~~(A) The name of the prospective candidate.~~

~~(B) The signatures of at least one hundred (100) registered voters residing in the county.~~

~~(C) A certification that the prospective candidate meets the qualifications for candidacy imposed by this chapter.~~

~~(3) Only eligible voters residing in the county may vote for a candidate.~~

~~(4) The two (2) candidates within the county who receive the greatest number of votes in the county are elected.~~

~~(c) A member elected under this section may not be, or have been during the year preceding the member's appointment or election, an officer or employee of a political subdivision.~~

SECTION 261. IC 6-1.1-29-3, AS AMENDED BY P.L.224-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~(a)~~ If a vacancy occurs in the membership of the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ with respect to an appointment made by a fiscal body, the vacancy shall be filled in the same manner provided for the original appointment.

~~(b) If a vacancy occurs after December 31, 2008, in the membership of the county board of tax and capital projects review with respect to a member elected under section 2(d) of this chapter, the county fiscal body shall appoint an individual to fill the vacancy for the remainder of the term.~~

SECTION 262. IC 6-1.1-29-4, AS AMENDED BY P.L.224-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~(a) Except as provided in subsection (b),~~ Each county board of tax adjustment, ~~(before January 1, 2009) or county board of tax and capital projects review (after December 31, 2008),~~ except the board for a consolidated city and county and for a county containing a second class city, shall hold its first meeting of each year for the purpose of reviewing budgets, tax rates, and levies on September 22 or on the first business day after September 22, if September 22 is not a business day. The board for a consolidated city and county and for a county containing a second class city shall hold its first meeting of each year for the purpose of reviewing budgets, tax rates, and levies on the first Wednesday following the adoption of city and county budget, tax rate, and tax levy ordinances. The board shall hold the meeting at the office of the county auditor. At the first meeting of each year, the board shall elect a chairman and a vice-chairman. After this meeting, the board shall continue to meet from day to day at any convenient place until its business is completed. However, the board must ~~except as provided in subsection (b),~~ complete its duties on or before the date prescribed in IC 6-1.1-17-9(a).

~~(b) This section does not limit the ability of the county board of tax and capital projects review to meet after December 31, 2008, at any time~~

~~during a year to carry out its duties under IC 6-1.1-29.5.~~

SECTION 263. IC 6-1.1-29-5, AS AMENDED BY P.L.224-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The county auditor shall serve as clerk of the county board of tax adjustment. The clerk shall keep a complete record of all the board's proceedings. The clerk may not vote on matters before the board. ~~This section expires December 31, 2008.~~

SECTION 264. IC 6-1.1-29-6, AS AMENDED BY P.L.224-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a)~~ The four (4) freehold members of the county board of tax adjustment shall receive compensation on a per diem basis for each day of actual service. The rate of this compensation is the same as the rate that the freehold members of the county property tax assessment board of appeals of that county receive. The county auditor shall keep an attendance record of each meeting of the county board of tax adjustment. At the close of each annual session, the county auditor shall certify to the county board of commissioners the number of days actually served by each freehold member. The county board of commissioners may not allow claims for service on the county board of tax adjustment for more days than the number of days certified by the county auditor. ~~This subsection expires December 31, 2008.~~

~~(b) A member of the county board of tax and capital projects review who is elected under section 1.5 of this chapter shall receive compensation from the county on a per diem basis for each day of actual service on the board. The rate of the compensation is equal to the rate that members of the county property tax assessment board of appeals in the county receive under IC 6-1.1-28-3. The county auditor shall keep an attendance record of each meeting of the county board of tax and capital projects review. The county auditor shall certify to the county executive the number of days actually served by each elected member. The county executive may not allow claims for service on the county board of tax and capital projects review for more days than the number of days certified by the county auditor. Appointed members of the county board of tax and capital projects review are not entitled to per diem compensation.~~

SECTION 265. IC 6-1.1-29-7, AS AMENDED BY P.L.224-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ may require an official of a political subdivision of the county to appear before the board. In addition, the board

may require such an official to provide the board with information which is related to the budget, tax rate, or tax levy of the political subdivision.

SECTION 266. IC 6-1.1-29-8, AS AMENDED BY P.L.224-2007, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ may employ an examiner of the state board of accounts to assist the county board with its duties. If the board desires to employ an examiner, it shall adopt a resolution which states the number of days that the examiner is to serve. When the county board files a copy of the resolution with the chief examiner of the state board of accounts, the state board of accounts shall assign an examiner to the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ for the number of days stated in the resolution. When an examiner of the state board of accounts is employed by a county board of tax adjustment ~~(before January 1, 2009) or a county board of tax and capital projects review (after December 31, 2008)~~ under this section, the county shall pay the expenses related to the examiner's services in the same manner that expenses are to be paid under IC 5-11-4-3.

SECTION 267. IC 6-1.1-29-9, AS AMENDED BY P.L.224-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) ~~This subsection expires December 31, 2008.~~ A county council may adopt an ordinance to abolish the county board of tax adjustment. This ordinance must be adopted by July 1 and may not be rescinded in the year it is adopted. Notwithstanding IC 6-1.1-17, IC 6-1.1-18, IC 20-45 **(before January 1, 2009),** IC 20-46, IC 12-19-7 **(before January 1, 2009),** IC 12-19-7.5 **(before January 1, 2009),** IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-11, IC 36-9-3, IC 36-9-4, and IC 36-9-13, if such an ordinance is adopted, this section governs the treatment of tax rates, tax levies, and budgets that would otherwise be reviewed by a county board of tax adjustment under IC 6-1.1-17.

~~(b) This subsection applies after December 31, 2008. Subject to subsection (c), a county board of tax and capital projects review may not review or modify tax rates, tax levies, and budgets if the county council:~~

~~(1) adopts an ordinance to abolish the county board of tax adjustment before January 1, 2009; or~~

~~(2) adopts an ordinance before July 2 of any year to prohibit the county board of tax and capital projects review from carrying out~~

~~such reviews.~~

~~An ordinance described in this subsection may not be rescinded in the year it is adopted. Notwithstanding IC 6-1.1-17, IC 6-1.1-18, IC 8-18-21-13, IC 12-19-7, IC 12-19-7.5, IC 14-30-2-19, IC 14-30-4-16, IC 14-33-9-1, IC 20-45, IC 20-46, IC 36-7-15.1-26.9, IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-11, IC 36-9-3, IC 36-9-4, and IC 36-9-13, if such an ordinance is adopted and has not been rescinded, this section governs the treatment of tax rates, tax levies, and budgets that would otherwise be reviewed by a county board of tax and capital projects review. If an ordinance described in subdivision (1) or (2) has been adopted in a county and has not been rescinded, the county board of tax and capital projects review may not review tax rates, tax levies, and budgets (other than for capital projects) under IC 6-1.1-17-3, IC 6-1.1-17-5, IC 6-1.1-17-5.6, IC 6-1.1-17-6, IC 6-1.1-17-7, IC 6-1.1-17-9, IC 6-1.1-17-10, IC 6-1.1-17-11, IC 6-1.1-17-12, IC 6-1.1-17-14, IC 6-1.1-17-15, IC 6-1.1-29-4(a), IC 8-18-21-13, IC 12-19-7, IC 12-19-7.5, IC 14-30-2-19, IC 14-30-4-16, IC 14-33-9-1, IC 20-45, IC 20-46, IC 36-7-15.1-26.9, IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-11, IC 36-9-3, IC 36-9-4, or IC 36-9-13.~~

~~(c)~~ **(b)** The time requirements set forth in IC 6-1.1-17 govern all filings and notices.

~~(d)~~ **(c)** If an ordinance described in subsection (a) ~~or (b)~~ is adopted and has not been rescinded, a tax rate, tax levy, or budget that otherwise would be reviewed by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ is considered and must be treated for all purposes as if the county board of tax adjustment approved the tax rate, tax levy, or budget. This includes the notice of tax rates that is required under IC 6-1.1-17-12.

~~(e) This section does not prohibit a county board of tax and capital projects review from reviewing tax rates, tax levies, and budgets for informational purposes as necessary to carry out its duties under IC 6-1.1-29.5.~~

SECTION 268. IC 6-1.1-30-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 17. (a) Except as provided in subsection (c) and subject to subsection (d), the department of state revenue and the auditor of state shall, when requested by the department of local government finance, withhold a percentage of the distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, or county**

economic development income tax distributions under IC 6-3.5-7 that would otherwise be distributed to the county under the schedules in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-17, IC 6-3.5-6-17.3, IC 6-3.5-7-16, and IC 6-3.5-7-17.3, if:

(1) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(2) the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25;

(3) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure form data under IC 6-1.1-5.5-3;

(5) the county auditor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(6) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(7) the county does not maintain a certified computer system that meets the requirements of IC 6-1.1-31.5-3.5;

(8) the county auditor has not transmitted the data described in IC 36-2-9-20 to the department of local government finance in the form and on the schedule specified by IC 36-2-9-20;

(9) the county has not established a parcel index numbering system under 50 IAC 23-8-1 in a timely manner; or

(10) a county official has not provided other information to the department of local government finance in a timely manner as required by the department of local government finance.

The percentage to be withheld is the percentage determined by the department of local government finance.

(b) Except as provided in subsection (e), money not distributed for the reasons stated in subsection (a) shall be distributed to the county when the department of local government finance determines that the

failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(c) The restrictions on distributions under subsection (a) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(d) The department of local government finance shall give the county auditor at least thirty (30) days notice in writing before the department of state revenue or the auditor of state withholds a distribution under subsection (a).

(e) Money not distributed for the reason stated in subsection (a)(3) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (b).

(f) This subsection applies to a county that will not receive a distribution under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7. At the request of the department of local government finance, an amount permitted to be withheld under subsection (a) may be withheld from any state revenues that would otherwise be distributed to the county or one (1) or more taxing units in the county.

SECTION 269. IC 6-1.1-31-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The department of local government finance shall do the following:

(1) Prescribe the property tax forms and returns which taxpayers are to complete and on which the taxpayers' assessments will be based.

(2) Prescribe the forms to be used to give taxpayers notice of assessment actions.

(3) Adopt rules concerning the assessment of tangible property.

(4) Develop specifications that prescribe state requirements for computer software and hardware to be used by counties for assessment purposes. The specifications developed under this subdivision apply only to computer software and hardware systems purchased for assessment purposes after July 1, 1993. **The specifications, including specifications in a rule or other standard adopted under IC 6-1.1-31.5, must provide for:**

(A) maintenance of data in a form that formats the

information in the file with the standard data, field, and record coding jointly required and approved by the department of local government finance and the legislative services agency;

(B) data export and transmission that is compatible with the data export and transmission requirements in a standard format prescribed by the office of technology established by IC 4-13.1-2-1 and jointly approved by the department of local government finance and legislative services agency; and

(C) maintenance of data in a manner that ensures prompt and accurate transfer of data to the department of local government finance and the legislative services agency, as jointly approved by the department of local government and legislative services agency.

(5) Adopt rules establishing criteria for the revocation of a certification under IC 6-1.1-35.5-6.

(b) The department of local government finance may adopt rules that are related to property taxation or the duties or the procedures of the department.

(c) Rules of the state board of tax commissioners are for all purposes rules of the department of local government finance and the Indiana board until the department and the Indiana board adopt rules to repeal or supersede the rules of the state board of tax commissioners.

SECTION 270. IC 6-1.1-31-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. When the department of local government finance prescribes or promulgates a rule, regulation, property tax form, property tax return, notice form, **bulletin, directive**, or any other paper, the department shall:

(1) send copies of it to the local taxing officials;

(2) send a copy of it to the executive director of the legislative services agency in an electronic format under IC 5-14-6, if it is not published in the Indiana Register under IC 4-22; and

~~(2)~~ **(3)** maintain copies of it for general distribution.

SECTION 271. IC 6-1.1-31-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Subject to this article, the rules adopted by the department of local government finance are the basis for determining the true tax value of tangible property.

(b) ~~Local~~ Assessing officials ~~members of the county property tax assessment board of appeals, and county assessors~~ shall:

(1) comply with the rules, appraisal manuals, bulletins, and

directives adopted by the department of local government finance;

(2) use the property tax forms, property tax returns, and notice forms prescribed by the department; and

(3) collect and record the data required by the department.

(c) In assessing tangible property, the ~~township assessors, members of the county property tax assessment board of appeals, and county assessors~~ **assessing officials** may consider factors in addition to those prescribed by the department of local government finance if the use of the additional factors is first approved by the department. Each ~~township assessor, of the county property tax assessment board of appeals, and the county assessor~~ **assessing official** shall indicate on ~~his~~ **the official's** records for each individual assessment whether:

(1) only the factors contained in the department's rules, forms, and returns have been considered; or

(2) factors in addition to those contained in the department's rules, forms, and returns have been considered.

SECTION 272. IC 6-1.1-31.5-2, AS AMENDED BY P.L.228-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Subject to section ~~3.5(c)~~ **3.5** of this chapter, the department shall adopt rules under IC 4-22-2 to prescribe computer specification standards and for the certification of:

(1) computer software;

(2) software providers;

(3) computer service providers; and

(4) computer equipment providers.

(b) The rules of the department shall provide for:

(1) the effective and efficient administration of assessment laws;

(2) the prompt updating of assessment data;

(3) the administration of information contained in the sales disclosure form, as required under IC 6-1.1-5.5; and

(4) other information necessary to carry out the administration of the property tax assessment laws.

(c) After ~~December 31, 1998,~~ **June 30, 2008,** subject to section ~~3.5(c)~~ **3.5** of this chapter a county:

(1) may contract only for computer software and with software providers, computer service providers, and equipment providers that are certified by the department under the rules described in subsection (a); **and**

(2) may enter into a contract referred to in subdivision (1) only if the department is a party to the contract.

~~(d) The initial rules under this section must be adopted under IC 4-22-2 before January 1, 1998.~~

SECTION 273. IC 6-1.1-31.5-3.5, AS AMENDED BY P.L.228-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.5. (a) Until the system described in subsection (e) is implemented, each county shall maintain a state certified computer system that has the capacity to:

(1) process and maintain assessment records;

(2) process and maintain standardized property tax forms;

(3) process and maintain standardized property assessment notices;

(4) maintain complete and accurate assessment records for the county; and

(5) process and compute complete and accurate assessments in accordance with Indiana law.

The county assessor ~~with the recommendation of the township assessors~~ shall select the computer system. ~~used by township assessors and the county assessor in the county except in a county with an elected township assessor in every township. In a county with an elected township assessor in every township, the elected township assessors shall select a computer system based on a majority vote of the township assessors in the county.~~

(b) All information on a computer system referred to in subsection (a) shall be readily accessible to:

~~(1) township assessors;~~

~~(2) the county assessor;~~

~~(3)~~ **(1)** the department of local government finance; and

~~(4) members of the county property tax assessment board of appeals.~~

(2) assessing officials.

(c) The certified system referred to in subsection (a) used by the counties must be:

(1) compatible with the data export and transmission requirements in a standard format prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and

(2) maintained in a manner that ensures prompt and accurate transfer of data to the department of local government finance and the legislative services agency.

(d) All standardized property forms and notices on the certified computer system referred to in subsection (a) shall be maintained by the ~~township assessor and the~~ county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

(e) The department shall adopt rules before July 1, 2006, for the establishment of:

(1) a uniform and common property tax management system ~~among~~ **for** all counties that:

(A) includes a combined mass appraisal and county auditor system integrated with a county treasurer system; and

(B) replaces the computer system referred to in subsection (a); and

(2) a schedule for implementation of the system referred to in subdivision (1) structured to result in the implementation of the system in all counties with respect to an assessment date:

(A) determined by the department; and

(B) specified in the rule.

(f) The department shall appoint an advisory committee to assist the department in the formulation of the rules referred to in subsection (e). The department shall determine the number of members of the committee. The committee:

(1) must include at least:

(A) one (1) township assessor;

(B) one (1) county assessor;

(C) one (1) county auditor; and

(D) one (1) county treasurer; and

(2) shall meet at times and locations determined by the department.

(g) Each member of the committee appointed under subsection (f) who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the committee appointed under subsection (f) who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The department shall report to the budget committee in writing the department's estimate of the cost of implementation of the system referred to in subsection (e).

SECTION 274. IC 6-1.1-31.7-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "appraiser" refers to a professional appraiser or a professional appraisal firm that contracts with a ~~township or~~ county under IC 6-1.1-4.

SECTION 275. IC 6-1.1-31.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The department shall adopt rules under IC 4-22-2 for the certification and regulation of appraisers.

(b) **Subject to subsection (d),** the rules of the department shall provide for the following:

(1) Minimum appraiser qualifications.

(2) Minimum appraiser certification, training, and recertification requirements.

(3) Sanctions for noncompliance with assessing laws and the rules of the department, including laws and rules that set time requirements for the completion of assessments.

(4) Appraiser contract requirements.

(5) Other provisions necessary to carry out the administration of the property tax assessment laws.

(c) After December 31, 1998, a county or township may contract only with appraisers that are certified by the department under the rules described in subsection (a).

(d) The rules referred to in subsection (b) that apply to contracts with appraisers entered into after December 31, 2008, must include level two assessor-appraiser certification under IC 6-1.1-35.5 as part of the minimum appraiser qualifications for each appraiser that performs assessments on behalf of the contractor.

SECTION 276. IC 6-1.1-33.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) This section applies to a system designed to permit the department of local government finance or a provider in a partnership or another arrangement with the department of local government finance to do any of the following:**

(1) Receive data subject to IC 6-1.1-4-25, IC 6-1.1-5.5-3, or IC 36-2-9-20 in a uniform format through a secure connection over the Internet.

(2) Maintain data subject to IC 6-1.1-4-25, IC 6-1.1-5.5-3, or IC 36-2-9-20 in an electronic data base.

(3) Provide public access to data subject to IC 6-1.1-4-25, IC 6-1.1-5.5-3, or IC 36-2-9-20.

(b) A system described in subsection (a) must do the following:

(1) Maintain the confidentiality of data that is declared to be confidential by IC 6-1.1-5.5-3, IC 6-1.1-5.5-5, IC 6-1.1-35-9, or other provisions of law.

(2) Provide prompt notice to the department of local government finance and legislative services agency of the receipt of data from counties and townships and other critical events, as jointly determined by the department of local government finance and the legislative services agency.

(3) Maintain data in a form that formats the information in the file with the standard data, field, and record coding jointly required and approved by the department of local government finance and the legislative services agency.

(4) Provide data export and transmission capabilities that are compatible with the data export and transmission requirements prescribed by the office of technology established by IC 4-13.1-2-1 and jointly approved by the department of local government finance and the legislative services agency.

(5) Provide to the legislative services agency and the department of local government finance unrestricted on line access and access through data export and transmission protocols to:

(A) the data transmitted to the system; and

(B) hardware, software, and other work product associated with the system;

including access to conduct the tests and inspections of the system and data determined necessary by the legislative services agency and access to data received from counties and townships in the form submitted by the counties and townships.

(6) Maintain data in a manner that provides for prompt and accurate transfer of data to the department of local government finance and the legislative services agency, as jointly approved by the department of local government finance and the legislative services agency.

(c) The department of local government finance and any third party system provider shall provide for regular consultation with the legislative services agency concerning the development and operation of the system and shall provide the legislative services agency with copies of system documentation of the procedures, standards, and internal controls and any written agreements related to the receipt of data and the management, operation, and use of the system.

SECTION 277. IC 6-1.1-33.5-9 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. The department of local government finance shall report before July 1 of each year to the legislative council concerning compliance with section 8 of this chapter.**

SECTION 278. IC 6-1.1-35-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The department of local government finance shall:

(1) interpret the property tax laws of this state;

(2) instruct property tax officials about their taxation and assessment duties; ~~and ensure that the county assessors, township assessors, and assessing officials are in compliance with section 1.1 of this chapter;~~

(3) see that all property assessments are made in the manner provided by law;

(4) conduct operational audits of the offices of assessing officials to determine if statutory and regulatory assignments are being completed in an effective, efficient, and productive manner; and

~~(4)~~ **(5)** develop and maintain a manual for all assessing officials and county assessors concerning:

(A) assessment duties and responsibilities of the various state and local officials;

(B) assessment procedures and time limits for the completion of assessment duties;

(C) changes in state assessment laws; and

(D) other matters relevant to the assessment duties of assessing officials, county assessors, and other county officials.

SECTION 279. IC 6-1.1-35-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) All information that is related to earnings, income, profits, losses, or expenditures and that is:

(1) given by a person to:

(A) an assessing official;

~~(B) a member of a county property tax assessment board of appeals;~~

~~(C) a county assessor;~~

~~(D)~~ **(B)** an employee of ~~a person referred to in clauses (A) through (C);~~ **an assessing official;** or

~~(E)~~ **(C)** an officer or employee of an entity that contracts with a board of county commissioners **or** a county assessor ~~or an elected township assessor~~ under IC 6-1.1-36-12; or

(2) acquired by:

(A) an assessing official;

~~(B) a member of a county property tax assessment board of appeals;~~

~~(C) a county assessor;~~

~~(D)~~ **(B)** an employee of ~~a person referred to in clauses (A) through (C);~~ **an assessing official;** or

~~(E)~~ **(C)** an officer or employee of an entity that contracts with a board of county commissioners **or** a county assessor ~~or an elected township assessor~~ under IC 6-1.1-36-12;

in the performance of the person's duties;

is confidential. The assessed valuation of tangible property is a matter of public record and is thus not confidential. Confidential information may be disclosed only in a manner that is authorized under subsection (b), (c), or (d).

(b) Confidential information may be disclosed to:

(1) an official or employee of:

(A) this state or another state;

(B) the United States; or

(C) an agency or subdivision of this state, another state, or the United States;

if the information is required in the performance of the official duties of the official or employee; or

(2) an officer or employee of an entity that contracts with a board of county commissioners **or** a county assessor ~~or an elected township assessor~~ under IC 6-1.1-36-12 if the information is required in the performance of the official duties of the officer or employee.

(c) The following state agencies, or their authorized representatives, shall have access to the confidential farm property records and schedules that are on file in the office of a county ~~or township~~ assessor:

(1) The Indiana state board of animal health, in order to perform its duties concerning the discovery and eradication of farm animal diseases.

(2) The department of agricultural statistics of Purdue University, in order to perform its duties concerning the compilation and dissemination of agricultural statistics. ~~and~~

(3) Any other state agency that needs the information in order to perform its duties.

(d) Confidential information may be disclosed during the course of a judicial proceeding in which the regularity of an assessment is questioned.

(e) Confidential information that is disclosed to a person under subsection (b) or (c) retains its confidential status. Thus, that person may

disclose the information only in a manner that is authorized under subsection (b), (c), or (d).

(f) Notwithstanding any other provision of law:

(1) a person who:

(A) is an officer or employee of an entity that contracts with a board of county commissioners **or** a county assessor ~~or an elected township assessor~~ under IC 6-1.1-36-12; and

(B) obtains confidential information under this section;

may not disclose that confidential information to any other person; and

(2) a person referred to in subdivision (1) must return all confidential information to the taxpayer not later than fourteen (14) days after the earlier of:

(A) the completion of the examination of the taxpayer's personal property return under IC 6-1.1-36-12; or

(B) the termination of the contract.

SECTION 280. IC 6-1.1-35-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) An assessing official ~~member of a county property tax assessment board of appeals, a state board member,~~ or an employee of ~~any~~ **an** assessing official ~~county assessor, or board~~ shall immediately be dismissed from that position if the person discloses in an unauthorized manner any information that is classified as confidential under section 9 of this chapter.

(b) If an officer or employee of an entity that contracts with a board of county commissioners **or** a county assessor ~~or an elected township assessor~~ under IC 6-1.1-36-12 discloses in an unauthorized manner any information that is classified as confidential under section 9 of this chapter:

(1) the contract between the entity and the board is void as of the date of the disclosure;

(2) the entity forfeits all right to payments owed under the contract after the date of disclosure;

(3) the entity and its affiliates are barred for three (3) years after the date of disclosure from entering into a contract with a board **or** a county assessor ~~or an elected township assessor~~ under IC 6-1.1-36-12; and

(4) the taxpayer whose information was disclosed has a right of action for triple damages against the entity.

SECTION 281. IC 6-1.1-35.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In any year in which

an assessing official ~~or a county assessor~~ takes office for the first time, the department of local government finance shall conduct training sessions determined under the rules adopted by the department under IC 4-22-2 for ~~these~~ **the** new assessing officials. ~~and county assessors. These~~ **The** sessions must be held at the locations described in subsection (b).

(b) To ensure that all newly elected or appointed assessing officials ~~and assessors~~ have an opportunity to attend the training sessions required by this section, the department of local government finance shall conduct the training sessions at a minimum of four (4) separate regional locations. The department shall determine the locations of the training sessions, but:

(1) at least one (1) training session must be held in the northeastern part of Indiana;

(2) at least one (1) training session must be held in the northwestern part of Indiana;

(3) at least one (1) training session must be held in the southeastern part of Indiana; and

(4) at least one (1) training session must be held in the southwestern part of Indiana.

The four (4) regional training sessions may not be held in Indianapolis. However, the department of local government finance may, after the conclusion of the four (4) training sessions, provide additional training sessions at locations determined by the department.

(c) Any new assessing official ~~or county assessor~~ who attends:

(1) a required session during the official's ~~or assessor's~~ term of office; or

(2) training between the date the person is elected to office and January 1 of the year the person takes office for the first time;

is entitled to receive the per diem per session set by the department of local government finance by rule adopted under IC 4-22-2 and a mileage allowance from the county in which the official resides.

(d) A person is entitled to a mileage allowance under this section only for travel between the person's place of work and the training session nearest to the person's place of work.

SECTION 282. IC 6-1.1-35.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Each year the department of local government finance shall conduct the continuing education sessions required in the rules adopted by the department for all assessing officials ~~county assessors,~~ and all ~~members of, and~~ hearing officers for the county property tax assessment board of appeals. These sessions must be conducted at the locations described in subsection (b).

(b) To ensure that all assessing officials ~~assessors, and members of county property tax assessment boards of appeals~~ **and hearing officers** have an opportunity to attend the continuing education sessions required by this section, the department of local government finance shall conduct the continuing education sessions at a minimum of four (4) separate regional locations. The department shall determine the locations of the continuing education sessions, but:

(1) at least one (1) continuing education session must be held in the northeastern part of Indiana;

(2) at least one (1) continuing education session must be held in the northwestern part of Indiana;

(3) at least one (1) continuing education session must be held in the southeastern part of Indiana; and

(4) at least one (1) continuing education session must be held in the southwestern part of Indiana.

The four (4) regional continuing education sessions may not be held in Indianapolis. However, the department of local government finance may, after the conclusion of the four (4) continuing education sessions, provide additional continuing education sessions at locations determined by the department.

(c) Any assessing official ~~county assessor,~~ or ~~member of, and~~ hearing ~~officers~~ **officer** for the county property tax assessment board of appeals who attends required sessions is entitled to receive a mileage allowance and the per diem per session set by the department of local government finance by rule adopted under IC 4-22-2 from the county in which the official resides. A person is entitled to a mileage allowance under this section only for travel between the person's place of work and the training session nearest to the person's place of work.

SECTION 283. IC 6-1.1-35.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A county that is required to make a payment to an assessing official ~~a county assessor,~~ or ~~member of, and~~ **a** hearing ~~officers~~ **officer** for the county property tax assessment board of appeals under this chapter must make the payment regardless of an appropriation. The payment may be made from the county's ~~cumulative~~ reassessment fund.

SECTION 284. IC 6-1.1-35.5-7, AS AMENDED BY P.L.219-2007, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) With respect to level one and level two certifications, the department of local government finance shall establish a fair and reasonable fee for examination and certification under this

chapter. However, the fee does not apply to an ~~elected~~ assessing official, a ~~county assessor, a member of, and~~ hearing ~~officers~~ **officer** for a county property tax assessment board of appeals, or an employee of an ~~elected~~ assessing official ~~county assessor,~~ or county property tax assessment board of appeals who is taking the level one examination or the level two examination for the first time.

(b) The assessing official training account is established as an account within the state general fund. All fees collected by the department of local government finance shall be deposited in the account. The account shall be administered by the department of local government finance and does not revert to the state general fund at the end of a fiscal year. The department of local government finance may use money in the account for:

(1) testing and training of assessing officials, county assessors, members of a county property tax assessment board of appeals, and employees of assessing officials, county assessors, or the county property tax assessment board of appeals; and

(2) administration of the level three certification program under section 4.5 of this chapter.

SECTION 285. IC 6-1.1-36-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A township assessor's assessment or a county assessor's assessment of property is valid even if:

(1) ~~he~~ **the assessor** does not complete, or notify the county auditor of, the assessment by the time prescribed under IC 6-1.1-3 or IC 6-1.1-4;

(2) there is an irregularity or informality in the manner in which ~~he~~ **the assessor** makes the assessment; or

(3) there is an irregularity or informality in the tax list.

An irregularity or informality in the assessment or the tax list may be corrected at any time.

(b) This section does not release a township assessor or county assessor from any duty to give notice or from any penalty imposed on ~~him~~ **the assessor** by law for ~~his~~ **the assessor's** failure to make ~~his~~ **the assessor's** return within the time ~~period~~ prescribed in IC 6-1.1-3 or IC 6-1.1-4.

SECTION 286. IC 6-1.1-36-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) An assessing official ~~a county assessor, a member of a county property tax assessment board of appeals,~~ or a representative of the department of local government finance may file an affidavit with a circuit court of this state if:

(1) the official ~~or board member~~ or ~~a~~ representative ~~of the official or board~~ has requested that a person give information or produce books or records; and

(2) the person has not complied with the request.

The affidavit must state that the person has not complied with the request.

(b) When an affidavit is filed under subsection (a), the circuit court shall issue a writ which directs the person to appear at the office of the official or ~~board member~~ **representative** and to give the requested information or produce the requested books or records. The appropriate county sheriff shall serve the writ. A person who disobeys the writ is guilty of contempt of court.

(c) If a writ is issued under this section, the cost incurred in filing the affidavit, in the issuance of the writ, and in the service of the writ shall be charged to the person against whom the writ is issued. If a writ is not issued, all costs shall be charged to the county in which the circuit court proceedings are held, and the board of commissioners of that county shall allow a claim for the costs.

SECTION 287. IC 6-1.1-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. In order to discharge their official duties, the following officials may administer oaths and affirmations:

~~(1) Assessing officials.~~

~~(2)~~ **(1)** County assessors.

(2) Township assessors.

(3) County auditors.

(4) Members of a county property tax assessment board of appeals.

(5) Members of the Indiana board.

SECTION 288. IC 6-1.1-36-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The department of local government finance may cancel any property taxes assessed against real property owned by a county, township, city, or town if a petition requesting that the department cancel the taxes is submitted by the auditor, assessor, and treasurer of the county in which the real property is located.

(b) The department of local government finance may cancel any property taxes assessed against real property owned by this state if a petition requesting that the department cancel the taxes is submitted by:

(1) the governor; or

(2) the chief administrative officer of the state agency which supervises the real property.

However, if the petition is submitted by the chief administrative officer of

a state agency, the governor must approve the petition.

(c) The department of local government finance may compromise the amount of property taxes, together with any interest or penalties on those taxes, assessed against the fixed or distributable property owned by a bankrupt railroad, which is under the jurisdiction of:

(1) a federal court under 11 U.S.C. 1163;

(2) Chapter X of the Acts of Congress Relating to Bankruptcy (11 U.S.C. 701-799); or

(3) a comparable bankruptcy law.

(d) After making a compromise under subsection (c) and after receiving payment of the compromised amount, the department of local government finance shall distribute to each county treasurer an amount equal to the product of:

(1) the compromised amount; multiplied by

(2) a fraction, the numerator of which is the total of the particular county's property tax levies against the railroad for the compromised years, and the denominator of which is the total of all property tax levies against the railroad for the compromised years.

(e) After making the distribution under subsection (d), the department of local government finance shall direct the auditors of each county to remove from the tax rolls the amount of all property taxes assessed against the bankrupt railroad for the compromised years.

(f) The county auditor of each county receiving money under subsection (d) shall allocate that money among the county's taxing districts. The auditor shall allocate to each taxing district an amount equal to the product of:

(1) the amount of money received by the county under subsection (d); multiplied by

(2) a fraction, the numerator of which is the total of the taxing district's property tax levies against the railroad for the compromised years, and the denominator of which is the total of all property tax levies against the railroad in that county for the compromised years.

(g) The money allocated to each taxing district shall be apportioned and distributed among the taxing units of that taxing district in the same manner and at the same time that property taxes are apportioned and distributed.

(h) The department of local government finance may, with the approval of the attorney general, compromise the amount of property taxes, together with any interest or penalties on those taxes, assessed against property owned by a person that has a case pending under state or federal

bankruptcy law. Property taxes that are compromised under this section shall be distributed and allocated at the same time and in the same manner as regularly collected property taxes. The department of local government finance may compromise property taxes under this subsection only if:

(1) a petition is filed with the department of local government finance that requests the compromise and ~~that~~ is signed and approved by the assessor, auditor, and treasurer of each county and the assessor of each township **(if any)** that is entitled to receive any part of the compromised taxes;

(2) the compromise significantly advances the time of payment of the taxes; and

(3) the compromise is in the best interest of the state and the taxing units that are entitled to receive any part of the compromised taxes.

(i) A taxing unit that receives funds under this section is not required to include the funds in its budget estimate for any budget year which begins after the budget year in which it receives the funds.

(j) A county treasurer, with the consent of the county auditor and the county assessor, may compromise the amount of property taxes, interest, or penalties owed in a county by an entity that has a case pending under Title 11 of the United States Code (Bankruptcy Code) by accepting a single payment that must be at least seventy-five percent (75%) of the total amount owed in the county.

SECTION 289. IC 6-1.1-36-12, AS AMENDED BY P.L.154-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A board of county commissioners, a county assessor, or ~~an elected~~ **a** township assessor **(if any)** may enter into a contract for the discovery of property that has been undervalued or omitted from assessment. The contract must prohibit payment to the contractor for discovery of undervaluation or omission with respect to a parcel or personal property return before all appeals of the assessment of the parcel or the assessment under the return have been finalized. The contract may require the contractor to:

(1) examine and verify the accuracy of personal property returns filed by taxpayers with **the county assessor or** a township assessor of a township in the county; and

(2) compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.

(b) This subsection applies if funds are not appropriated for payment of services performed under a contract described in subsection (a). The

county auditor may create a special nonreverting fund in which the county treasurer shall deposit the amount of taxes, including penalties and interest, that result from additional assessments on undervalued or omitted property collected from all taxing jurisdictions in the county after deducting the amount of any property tax credits that reduce the owner's property tax liability for the undervalued or omitted property. The fund remains in existence during the term of the contract. Distributions shall be made from the fund without appropriation only for the following purposes:

(1) All contract fees and other costs related to the contract.

(2) After the payments required by subdivision (1) have been made and the contract has expired, the county auditor shall distribute all money remaining in the fund to the appropriate taxing units in the county using the property tax rates of each taxing unit in effect at the time of the distribution.

(c) A board of county commissioners, a county assessor, or ~~an elected~~ **a** township assessor may not contract for services under subsection (a) on a percentage basis.

SECTION 290. IC 6-1.1-36-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. When a political subdivision is formed, the auditor of the county in which the political subdivision is situated shall, at the written request of the legislative body of the political subdivision, prepare a list of all the lands and lots within the limits of the political subdivision, and the county auditor shall deliver the list to the appropriate township assessor, **or the county assessor if there is no township assessor for the township,** on or before the assessment date which immediately follows the date of incorporation. The county auditor shall use the records in the auditor's office in order to compile the list.

SECTION 291. IC 6-1.1-37-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~A county or township~~ **An assessing** official ~~member of a county or state board, or employee~~ **or a representative** of ~~such an official or board~~ **the department of local government finance** who:

(1) knowingly assesses any property at more or less than what ~~he~~ **the official or representative** believes is the proper assessed value of the property;

(2) knowingly fails to perform any of the duties imposed on ~~him~~ **the official or representative** under the general assessment provisions of this article; or

(3) recklessly violates any of the other general assessment provisions

of this article;

commits a Class A misdemeanor.

SECTION 292. IC 6-1.1-37-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) If a person fails to file a required personal property return on or before the due date, the county auditor shall add a penalty of twenty-five dollars ($25) to the person's next property tax installment. The county auditor shall also add an additional penalty to the taxes payable by the person if ~~he~~ **the person** fails to file the personal property return within thirty (30) days after the due date. The amount of the additional penalty is twenty percent (20%) of the taxes finally determined to be due with respect to the personal property which should have been reported on the return.

(b) For purposes of this section, a personal property return is not due until the expiration of any extension period granted by the township **or county** assessor under IC 6-1.1-3-7(b).

(c) The penalties prescribed under this section do not apply to an individual or ~~his~~ **the individual's** dependents if ~~he:~~ **the individual:**

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal Soldiers' and Sailors' Civil Relief Act.

(d) If a person subject to IC 6-1.1-3-7(d) fails to include on a personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars ($25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

(f) A penalty is due with an installment under subsection (a), (d), or (e) whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the

tax due on that installment.

SECTION 293. IC 6-1.1-37-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. A person who fails to provide, within forty-five (45) days after the filing deadline, evidence of the filing of a personal property return to the **township** assessor ~~of the township in which the owner resides,~~ **or the county assessor,** as required under IC 6-1.1-3-1(d), shall pay to the ~~township in which the owner resides,~~ **county** a penalty equal to ten percent (10%) of the tax liability.

SECTION 294. IC 6-1.1-37-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. A township assessor, **or the county assessor if there is no township assessor for the township,** shall inform the county auditor of any vending machine which does not, as required under ~~IC 1971,~~ **IC** 6-1.1-3-8, have an identification device on its face. The county auditor shall then add a one dollar ~~($1.00)~~ **($1)** penalty to the next property tax installment of the person on whose premises the machine is located.

SECTION 295. IC 6-1.1-37-10.7, AS ADDED BY P.L.67-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.7. (a) For purposes of this section, "immediate family member of the taxpayer" means an individual who:

(1) is the spouse, child, stepchild, parent, or stepparent of the taxpayer, including adoptive relationships; and

(2) resides in the taxpayer's home.

(b) The county treasurer shall do the following:

(1) Waive the penalty imposed under section 10(a) of this chapter if the taxpayer or the taxpayer's representative:

(A) petitions the county treasurer to waive the penalty not later than thirty (30) days after the due date of the installment subject to the penalty; and

(B) files with the petition written proof that during the seven (7) day period ending on the installment due date the taxpayer or an immediate family member of the taxpayer died.

(2) Give written notice to the taxpayer or the taxpayer's representative by mail of the treasurer's determination on the petition not later than thirty (30) days after the petition is filed with the treasurer.

(c) The department of local government finance shall prescribe:

(1) the form of the petition; and

(2) the type of written proof;

required under subsection (b).

(d) A taxpayer or a taxpayer's representative may appeal a determination of the county treasurer under subsection (b) to deny a penalty waiver by ~~requesting~~ **filing a notice** in writing ~~a preliminary conference~~ with the treasurer not more than forty-five (45) days after the treasurer gives the taxpayer or the taxpayer's representative notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 296. IC 6-1.1-39-5, AS AMENDED BY P.L.154-2006, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) A declaratory ordinance adopted under section 2 of this chapter and confirmed under section 3 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. The allocation provision must apply to the entire economic development district. The allocation provisions must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the economic development district be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units. However, if the effective date of the allocation provision of a declaratory ordinance is after March 1, 1985, and before January 1, 1986, and if an improvement to property was partially completed on March 1, 1985, the unit may provide in the declaratory ordinance that the taxes attributable to the assessed value of the property as finally determined for March 1, 1984, shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, part or all of the property tax proceeds in excess of those described in subdivision (1), as specified in the declaratory ordinance, shall be allocated to the unit for the economic development district and, when collected, paid into a special fund established by the unit for that economic development district that may be used only to pay the principal of and interest on obligations owed by the unit under IC 4-4-8 (before

its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, that economic development district. The amount not paid into the special fund shall be paid to the respective units in the manner prescribed by subdivision (1).

(3) When the money in the fund is sufficient to pay all outstanding principal of and interest (to the earliest date on which the obligations can be redeemed) on obligations owed by the unit under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, that economic development district, money in the special fund in excess of that amount shall be paid to the respective taxing units in the manner prescribed by subdivision (1).

(b) Property tax proceeds allocable to the economic development district under subsection (a)(2) must, subject to subsection (a)(3), be irrevocably pledged by the unit for payment as set forth in subsection (a)(2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the economic development district that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory ordinance is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Notwithstanding any other law, each assessor shall, upon petition of the fiscal body, reassess the taxable property situated upon or in, or added to, the economic development district effective on the next assessment date after the petition.

(e) Notwithstanding any other law, the assessed value of all taxable property in the economic development district, for purposes of tax limitation, property tax replacement, ~~(except as provided in IC 6-1.1-21-3(c), IC 6-1.1-21-4(a)(3), and IC 6-1.1-21-5(c)),~~ and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(f) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each

general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1.

(g) As used in this section, "property taxes" means:

(1) taxes imposed under this article on real property; and

(2) any part of the taxes imposed under this article on depreciable personal property that the unit has by ordinance allocated to the economic development district. However, the ordinance may not limit the allocation to taxes on depreciable personal property with any particular useful life or lives.

If a unit had, by ordinance adopted before May 8, 1987, allocated to an economic development district property taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the ordinance continues in effect until an ordinance is adopted by the unit under subdivision (2).

(h) As used in this section, "base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (f); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Subdivision (2) applies only to economic development districts established after June 30, 1997, and to additional areas established after June 30, 1997.

SECTION 297. IC 6-1.1-39-6, AS AMENDED BY P.L.219-2007, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. ~~(a)~~ An economic development district may be enlarged by the fiscal body by following the same procedure for the creation of an economic development district specified in this chapter. ~~Property taxes that are attributable to the additional area and allocable to~~

~~the economic development district are not eligible for the property tax replacement credit provided by IC 6-1.1-21-5. However, subject to subsection (c) and except as provided in subsection (f), each taxpayer in an additional area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in that year. Except as provided in subsection (f), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district in a county that contains all or part of the additional area:~~

~~STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) that is attributable to the taxing district.~~

~~STEP TWO: Divide:~~

~~(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by~~

~~(B) the STEP ONE sum.~~

~~STEP THREE: Multiply:~~

~~(A) the STEP TWO quotient; times~~

~~(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to a special fund under section 5 of this chapter had the additional credit described in this section not been given.~~

~~The additional credit reduces the amount of proceeds allocated to the economic development district and paid into a special fund under section 5(a) of this chapter.~~

~~(b) If the additional credit under subsection (a) is not reduced under subsection (c) or (d), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an additional area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be combined on the tax statements sent to each taxpayer.~~

~~(c) The county fiscal body may, by ordinance, provide that the additional credit described in subsection (a):~~

~~(1) does not apply in a specified additional area; or~~

~~(2) is to be reduced by a uniform percentage for all taxpayers in a specified additional area.~~

~~(d) Whenever the county fiscal body determines that granting the full additional credit under subsection (a) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the county fiscal body must adopt an ordinance under subsection (c) to deny the additional credit or reduce the additional credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. An ordinance adopted under subsection (c) denies or reduces the additional credit for taxes (as defined in IC 6-1.1-21-2) first due and payable in any year following the year in which the ordinance is adopted.~~

~~(e) An ordinance adopted under subsection (c) remains in effect until the ordinance is rescinded by the body that originally adopted the ordinance. However, an ordinance may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If an ordinance is rescinded and no other ordinance is adopted, the additional credit described in subsection (a) applies to taxes (as defined in IC 6-1.1-21-2) first due and payable in each year following the year in which the resolution is rescinded.~~

~~(f) This subsection applies to an additional area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an additional area is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).~~

SECTION 298. IC 6-1.1-39-9, AS AMENDED BY P.L.4-2005, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The fiscal body of a unit may by ordinance authorize the issuance of obligations to the department of commerce under IC 4-4-8 (before its repeal) or to the Indiana economic development corporation under IC 5-28-9 payable solely from taxes allocated under

section 5 of this chapter. Any obligations issued and payable from taxes allocated under section 5 of this chapter are not general obligations of the unit that established the economic development district under this chapter.

(b) The economic development district created by a unit under this chapter is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the economic development district by providing local public improvements that are of public use and benefit.

(c) The ordinance of a unit authorizing the issuance of obligations must contain a finding of the fiscal body that the proposed industrial development program:

(1) constitutes a local public improvement;

(2) provides special benefits to property owners in the district; and

(3) will be of public use and benefit.

(d) Proceeds of obligations issued under this section, IC 4-4-8 (before its repeal), and IC 5-28-9 may be used to pay for the following:

(1) The cost of local public improvements.

(2) Interest on the obligations for the period of construction of the local public improvements plus one (1) year after completion of construction.

(3) Reasonable debt service reserves.

(4) Costs of issuance of the obligations.

(5) Any other reasonable and necessary expenses related to issuance of the obligations.

~~(e) Notwithstanding any other law, IC 6-1.1-20 does not apply to obligations payable solely from tax proceeds allocated under section 5 of this chapter.~~

SECTION 299. IC 6-1.1-40-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 9. (a) Before a person acquires new manufacturing equipment for which the person wishes to claim a deduction under this chapter, the person must submit to the commission a statement of benefits, in a form prescribed by the department of local government finance. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment ~~and inventory~~ that the person proposes to acquire.

(2) An estimate of the number of individuals ~~that~~ **who** will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment ~~and acquisition of inventory~~ and an estimate of the annual salaries of

these individuals.

(3) An estimate of the cost of the new manufacturing equipment. ~~and inventory.~~

(b) The statement of benefits may contain any other information required by the commission. If the person is requesting or will be requesting the designation of a district, the statement of benefits must be submitted at the same time as the request for designation is submitted.

(c) The commission shall review the statement of benefits if required under subsection (b). The commission shall make findings determining whether the estimate of:

(1) the number of individuals ~~that~~ **who** will be employed or whose employment will be retained;

(2) the annual salaries of those individuals;

(3) the value of the new manufacturing equipment; ~~and inventory;~~ and

(4) any other benefits about which the commission requires information;

are benefits that can be reasonably expected to result from the installation of the new manufacturing equipment. ~~and acquisition of inventory.~~

SECTION 300. IC 6-1.1-40-10, AS AMENDED BY P.L.219-2007, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 10. (a) Subject to subsection ~~(c),~~ **(d),** an owner of new manufacturing equipment ~~or inventory, or both,~~ whose statement of benefits is approved is entitled to a deduction from the assessed value of that equipment ~~and inventory~~ for a period of ten (10) years. Except as provided in subsections **(b) and** (c), ~~and (d),~~ and subject to subsection ~~(c)~~ **(d)** and section 14 of this chapter, for the first five (5) years, the amount of the deduction for new manufacturing equipment that an owner is entitled to for a particular year equals the assessed value of the new manufacturing equipment. Subject to subsection ~~(c)~~ **(d)** and section 14 of this chapter, for the sixth through the tenth year, the amount of the deduction equals the product of:

(1) the assessed value of the new manufacturing equipment; multiplied by

(2) the percentage prescribed in the following table:

YEAR OF DEDUCTION	PERCENTAGE
6th	100%
7th	95%
8th	80%
9th	65%

10th	50%
11th and thereafter	0%

~~(b) Subject to section 14 of this chapter, for the first year the amount of the deduction for inventory equals the assessed value of the inventory. Subject to section 14 of this chapter, for the next nine (9) years, the amount of the deduction equals:~~

~~(1) the assessed value of the inventory for that year; multiplied by~~

~~(2) the owner's export sales ratio for the previous year, as certified by the department of state revenue under IC 6-3-2-13.~~

~~(c)~~ **(b)** A deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located to be less than the assessed value of all of the personal property of the owner in that taxing district in the immediately preceding year.

~~(d)~~ **(c)** If a deduction is not fully allowed under subsection ~~(c)~~ **(b)** in the first year the deduction is claimed, then the percentages specified in subsection (a) apply in the subsequent years to the amount of deduction that was allowed in the first year.

~~(e)~~ **(d)** For purposes of subsection (a), the assessed value of new manufacturing equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 301. IC 6-1.1-40-11 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 11. (a) A person that desires to obtain the deduction provided by section 10 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with:

(1) the auditor of the county in which the new manufacturing equipment ~~and inventory~~ is located; and

(2) the department of local government finance.

A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment is installed ~~or the inventory is subject to assessment~~ must file the application between March 1 and May 15 of that year.

(b) The application required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment. ~~and inventory.~~

(2) A description of the new manufacturing equipment. ~~and inventory.~~

(3) Proof of the date the new manufacturing equipment was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) A deduction application must be filed under this section in the year in which the new manufacturing equipment is installed ~~or the inventory is subject to assessment~~ and in each of the immediately succeeding nine (9) years.

(d) The department of local government finance shall review and verify the correctness of each application and shall notify the county auditor of the county in which the property is located that the application is approved or denied or that the amount of the deduction is altered. Upon notification of approval of the application or of alteration of the amount of the deduction, the county auditor shall make the deduction.

(e) If the ownership of new manufacturing equipment changes, the deduction provided under section 10 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 7(c) of this chapter; and

(2) files the applications required by this section.

(f) The amount of the deduction is:

(1) the percentage under section 10 of this chapter that would have applied if the ownership of the property had not changed; multiplied by

(2) the assessed value of the equipment for the year the deduction is claimed by the new owner.

SECTION 302. IC 6-1.1-42-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 17. (a) A person may apply for an assessed valuation deduction for:

(1) real property; and

(2) personal property; ~~other than inventory; (as defined in IC 6-1.1-3-11);~~

located in an area designated as a brownfield revitalization zone.

(b) An application for a deduction for an improvement to a brownfield revitalization zone or personal property located in a brownfield revitalization area must:

(1) be submitted to the designating body before the date that the improvement is initiated or, if the deduction is for personal property, the property is brought into the area;

(2) contain sufficient information for the designating body to approve the deduction; and

(3) be submitted in the form prescribed by the department of local government finance.

SECTION 303. IC 6-1.1-42-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) A property owner who desires to obtain the deduction provided by section 24 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township **or county** assessor.

(c) The certified deduction application required by this section must contain the following information:

(1) The name of each owner of the property.

(2) A certificate of completion of a voluntary remediation under IC 13-25-5-16.

(3) Proof that each owner who is applying for the deduction:

(A) has never had an ownership interest in an entity that

contributed; and

(B) has not contributed;

a contaminant (as defined in IC 13-11-2-42) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management.

(4) Proof that the deduction was approved by the appropriate designating body.

(5) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(6) The assessed value of the improvements before remediation and redevelopment.

(7) The increase in the assessed value of improvements resulting from remediation and redevelopment.

(8) The amount of the deduction claimed for the first year of the deduction.

(d) A certified deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of property is made and each subsequent year to which the deduction applies under the resolution adopted under section 24 of this chapter.

(e) A property owner who desires to obtain the deduction provided by section 24 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which is applicable for the year filed and the subsequent years without any additional certified deduction application being filed for the amounts of the deduction which would be applicable to such years under this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) On verification of the correctness of a certified deduction application by the assessor of the township in which the property is located, **or the county assessor if there is no township assessor for the township,** the county auditor shall, if the property is covered by a resolution adopted under section 24 of this chapter, make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 24 of this chapter are not affected by a change in the ownership of the property if the new owner of the property:

(1) is a person that:

(A) has never had an ownership interest in an entity that

contributed; and

(B) has not contributed;

a contaminant (as defined in IC 13-11-2-42) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management;

(2) continues to use the property in compliance with any standards established under sections 7 and 23 of this chapter; and

(3) files an application in the manner provided by subsection (e).

(h) The township assessor, **or the county assessor if there is no township assessor for the township,** shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

SECTION 304. IC 6-1.1-45-9, AS AMENDED BY P.L.211-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Subject to subsection (c), a taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

(1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus

(2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

(c) A taxpayer that makes a qualified investment in an enterprise zone established under IC 5-28-15-11 that is under the jurisdiction of a military base reuse authority board created under IC 36-7-14.5 or IC 36-7-30-3 is entitled to a deduction under this section only if the deduction is approved by the **legislative body of the unit that established the** military base reuse authority board.

(d) Except as provided in subsection (c), a taxpayer that makes a qualified investment at an enterprise zone location that is located within an allocation area, as defined by ~~IC 12-19-1.5-1,~~ **IC 6-1.1-21.2-3,** is entitled to a deduction under this section only if the deduction is approved by the: ~~governing body of the allocation area.~~

(1) fiscal body of the unit, in the case of an allocation area

established under IC 6-1.1-39;

(2) legislative body of the unit described in IC 8-22-3.5-1, in the case of an allocation area located in an airport development zone;

(3) legislative body of the unit that established the department of redevelopment, in the case of an allocation area established under IC 36-7-14;

(4) legislative body of the unit that established the redevelopment authority, in the case of an allocation area established under IC 36-7-14.5;

(5) legislative body of the consolidated city or excluded city that approved the establishment of the allocation area, in the case of an allocation area established under IC 36-7-15.1; or

(6) legislative body of the unit that established the reuse authority, in the case of an allocation area established under IC 36-7-30.

SECTION 305. IC 6-1.1-45.5-3, AS ADDED BY P.L.208-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. On receipt of a petition under section 2 of this chapter, the county auditor shall determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. On receipt of a complete petition, the county auditor shall forward a copy of the complete petition to:

(1) the assessor of the township in which the brownfield is located, **or the county assessor if there is no township assessor for the township;**

(2) the owner, if different from the petitioner;

(3) all persons that have, as of the date of the filing of the petition, a substantial property interest of public record in the brownfield;

(4) the board;

(5) the fiscal body;

(6) the department of environmental management; and

(7) the department.

SECTION 306. IC 6-1.1-45.5-4, AS ADDED BY P.L.208-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. On receipt of a complete petition as provided under sections 2 and 3 of this chapter, the board shall at its earliest opportunity conduct a public hearing on the petition. The board shall give

notice of the date, time, and place fixed for the hearing:

(1) by mail to:

(A) the petitioner;

(B) the owner, if different from the petitioner;

(C) all persons that have, as of the date the petition was filed, a substantial interest of public record in the brownfield; and

(D) the assessor of the township in which the brownfield is located, **or the county assessor if there is no township assessor for the township;** and

(2) under IC 5-3-1.

SECTION 307. IC 6-1.1-45.5-8, AS ADDED BY P.L.208-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The department shall give notice of its determination under section 7 of this chapter and the right to seek an appeal of the determination by mail to:

(1) the petitioner;

(2) the owner, if different from the petitioner;

(3) all persons that have, as of the date the petition was filed under section 2 of this chapter, a substantial property interest of public record in the brownfield;

(4) the assessor of the township in which the brownfield is located, **or the county assessor if there is no township assessor for the township;**

(5) the board;

(6) the fiscal body; and

(7) the county auditor.

(b) A person aggrieved by a determination of the department under section 7 of this chapter may obtain an additional review by the department and a public hearing by filing a petition for review with the county auditor of the county in which the brownfield is located not more than thirty (30) days after the department gives notice of the determination under subsection (a). The county auditor shall transmit the petition to the department not more than ten (10) days after the petition is filed.

(c) On receipt by the department of a petition for review, the department shall set a date, time, and place for a hearing. At least ten (10) days before the date fixed for the hearing, the department shall give notice by mail of the date, time, and place fixed for the hearing to:

(1) the person that filed the appeal;

(2) the petitioner;

(3) the owner, if different from the petitioner;

(4) all persons that have, as of the date the petition is filed, a substantial interest of public record in the brownfield;

(5) the assessor of the township in which the brownfield is located, **or the county assessor if there is no township assessor for the township;**

(6) the board;

(7) the fiscal body; and

(8) the county auditor.

(d) After the hearing, the department shall give the parties listed in subsection (c) notice by mail of the final determination of the department. The department's final determination under this subsection is subject to the limitations in subsections (f)(2) and (g).

(e) The petitioner under section 2 of this chapter shall provide to the county auditor reasonable proof of ownership of the brownfield:

(1) if a petition is not filed under subsection (b), at least thirty (30) days but not more than one hundred twenty (120) days after notice is given under subsection (a); or

(2) after notice is given under subsection (d) but not more than ninety (90) days after notice is given under subsection (d).

(f) The county auditor:

(1) shall, subject to subsection (g), reduce or remove the delinquent tax liability on the tax duplicate in the amount stated in:

(A) if a petition is not filed under subsection (b), the determination of the department under section 7 of this chapter; or

(B) the final determination of the department under this section;

not more than thirty (30) days after receipt of the proof of ownership required in subsection (e); and

(2) may not reduce or remove any delinquent tax liability on the tax duplicate if the petitioner under section 2 of this chapter fails to provide proof of ownership as required in subsection (e).

(g) A reduction or removal of delinquent tax liability under subsection (f) applies until the county auditor makes a determination under this subsection. After the date referred to in section 2(6) of this chapter, the county auditor shall determine if the petitioner successfully completed the plan described in section 2(5) of this chapter by that date. If the county auditor determines that the petitioner completed the plan by that date, the reduction or removal of delinquent tax liability under subsection (f) becomes permanent. If the county auditor determines that the petitioner did not complete the plan by that date, the county auditor shall restore to

the tax duplicate the delinquent taxes reduced or removed under subsection (f), along with interest in the amount that would have applied if the delinquent taxes had not been reduced or removed.

SECTION 308. IC 6-1.5-5-2, AS AMENDED BY P.L.219-2007, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

(1) conduct a hearing; or

(2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may correct any errors that may have been made and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing by mail to:

(1) the taxpayer;

(2) the department of local government finance; and

(3) the appropriate:

(A) township assessor **(if any);**

(B) county assessor; and

(C) county auditor.

(d) With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notices required under subsection (c) must include the following:

(1) The action of the department of local government finance with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (e) may:

(A) attend the hearing;

(B) offer testimony; and

(C) file an amicus curiae brief in the proceeding.

(e) If, after receiving notice of a hearing under subsection (c), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. A taxing unit that receives a notice from the county auditor under this subsection is

not a party to the appeal. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

(f) The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

SECTION 309. IC 6-1.5-5-5, AS AMENDED BY P.L.154-2006, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor **(if any),** the county assessor, the county auditor, and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

The county auditor shall provide copies of the documents described in subdivisions (1) and (2) to the taxing units entitled to notice under section 2(e) of this chapter.

SECTION 310. IC 6-2.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008]: Sec. 2. (a) The state gross retail tax is measured by the gross retail income received by a retail merchant in a retail unitary transaction and is imposed at the following rates:

STATE GROSS RETAIL TAX	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
~~$ 0~~		~~less than~~	~~$0.09~~
~~$ 0.01~~	~~at least $ 0.09~~	~~but less than~~	~~$0.25~~
~~$ 0.02~~	~~at least $ 0.25~~	~~but less than~~	~~$0.42~~
~~$ 0.03~~	~~at least $ 0.42~~	~~but less than~~	~~$0.59~~
~~$ 0.04~~	~~at least $ 0.59~~	~~but less than~~	~~$0.75~~
~~$ 0.05~~	~~at least $ 0.75~~	~~but less than~~	~~$0.92~~
~~$ 0.06~~	~~at least $ 0.92~~	~~but less than~~	~~$1.09~~
$ 0		**less than**	**$0.08**
$ 0.01	**at least $ 0.08**	**but less than**	**$0.21**
$ 0.02	**at least $ 0.21**	**but less than**	**$0.36**
$ 0.03	**at least $ 0.36**	**but less than**	**$0.51**
$ 0.04	**at least $ 0.51**	**but less than**	**$0.64**
$ 0.05	**at least $ 0.64**	**but less than**	**$0.79**
$ 0.06	**at least $ 0.79**	**but less than**	**$0.93**

$ 0.07 at least $ 0.93 but less than $1.07

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and ~~nine~~ **seven** cents ~~($1.09)~~ **($1.07)** or more, the state gross retail tax is ~~six~~ **seven** percent ~~(6%)~~ **(7%)** of that gross retail income.

(b) If the tax computed under subsection (a) results in a fraction of one-half cent ($0.005) or more, the amount of the tax shall be rounded to the next additional cent.

SECTION 311. IC 6-2.5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008]: Sec. 7. Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

(1) ~~six~~ **seven** percent ~~(6%);~~ **(7%);** multiplied by

(2) the retail merchant's total gross retail income from taxable transactions made during the reporting period.

The amount determined under this section is the retail merchant's state gross retail and use tax liability regardless of the amount of tax ~~he~~ **the retail merchant** actually collects.

SECTION 312. IC 6-2.5-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008]: Sec. 8. (a) For purposes of determining the amount of state gross retail and use taxes which ~~he~~ **a retail merchant** must remit under section 7 of this chapter, ~~a~~ **the** retail merchant may exclude from ~~his~~ **the retail merchant's** gross retail income from retail transactions made during a particular reporting period, an amount equal to the product of:

(1) the amount of that gross retail income; multiplied by

(2) the retail merchant's "income exclusion ratio" for the tax year which contains the reporting period.

(b) A retail merchant's "income exclusion ratio" for a particular tax year equals a fraction, the numerator of which is the retail merchant's estimated total gross retail income for the tax year from unitary retail transactions which produce gross retail income of less than ~~nine~~ **eight** cents ~~($0.09)~~ **($0.08)** each, and the denominator of which is the retail merchant's estimated total gross retail income for the tax year from all retail transactions.

(c) In order to minimize a retail merchant's recordkeeping requirements, the department shall prescribe a procedure for determining the retail merchant's income exclusion ratio for a tax year, based on a period of time, not to exceed fifteen (15) consecutive days, during the first quarter of the retail merchant's tax year. However, the period of time may

be changed if the change is requested by the retail merchant because of ~~his~~ **the retail merchant's** peculiar accounting procedures or marketing factors. In addition, if a retail merchant has multiple sales locations or diverse types of sales, the department shall permit the retail merchant to determine the ratio on the basis of a representative sampling of the locations and types of sales.

SECTION 313. IC 6-2.5-6-10, AS AMENDED BY P.L.211-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) ~~Eighty-three~~ **Seventy-three** hundredths percent ~~(0.83%),~~ **(0.73%),** if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars ($60,000).

(2) ~~Six-tenths~~ **Fifty-three hundredths** percent ~~(0.6%),~~ **(0.53%),** if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars ($60,000); and

(B) did not exceed six hundred thousand dollars ($600,000).

(3) ~~Three-tenths~~ **Twenty-six hundredths** percent ~~(0.3%),~~ **(0.26%),** if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars ($600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

SECTION 314. IC 6-2.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008]: Sec. 3. (a) With respect to the sale of gasoline which is dispensed from a metered pump, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent ($0.001),

of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) ~~six~~ **seven** percent ~~(6%).~~ **(7%).**

The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

(b) With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent ($0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) ~~six~~ **seven** percent ~~(6%).~~ **(7%).**

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

SECTION 315. IC 6-2.5-7-5, AS AMENDED BY P.L.182-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2008]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit

the state gross retail tax in an amount which equals ~~five~~ **six** and ~~sixty-six~~ **fifty-four** hundredths percent ~~(5.66%)~~ **(6.54%)** of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which ~~he~~ **the merchant** has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) eighteen cents ($0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars ($1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars ($1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under

subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 316. IC 6-2.5-8-1, AS AMENDED BY P.L.219-2007, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless the retail merchant has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars ($25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where the retail merchant makes retail transactions. However, if the retail merchant does not have a fixed place of business, the retail merchant shall list the retail merchant's residence as the retail merchant's place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, the retail merchant must file a supplemental application and pay the fee for that place of business.

(f) A registered retail merchant's certificate is valid for two (2) years after the date the registered retail merchant's certificate is originally issued or renewed. If the retail merchant has filed all returns and remitted all taxes the retail merchant is currently obligated to file or remit, the department shall renew the registered retail merchant's certificate within thirty (30) days after the expiration date, at no cost to the retail merchant.

(g) The department may not renew a registered retail merchant certificate of a retail merchant who is delinquent in remitting sales or use tax. The department, at least sixty (60) days before the date on which a

retail merchant's registered retail merchant's certificate expires, shall notify a retail merchant who is delinquent in remitting sales or use tax that the department will not renew the retail merchant's registered retail merchant's certificate.

(h) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

(1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;

(2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and

(3) any other information that the department requests.

(i) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, the out-of-state retail merchant must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that the out-of-state retail merchant knows is intended for use in Indiana.

(j) Except as provided in subsection (k), the department shall submit to the township assessor, **or the county assessor if there is no township assessor for the township,** before July 15 of each year:

(1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township **or county;** and

(2) the address of each place of business of the taxpayer in the township **or county.**

(k) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, the department shall submit the information listed in subsection (j) to the county assessor.

SECTION 317. IC 6-2.5-10-1, AS AMENDED BY P.L.234-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2008]: Sec. 1. (a) The department shall account for all state gross

retail and use taxes that it collects.

(b) The department shall deposit those collections in the following manner:

~~(1) Fifty percent (50%) of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.~~

~~(2)~~ **(1)** ~~Forty-nine~~ **Ninety-nine** and ~~sixty-seven~~ **one hundred seventy-eight** thousandths percent ~~(49.067%)~~ **(99.178%)** of the collections shall be paid into the state general fund.

~~(3)~~ **(2)** ~~Seventy-six~~ **Sixty-seven** hundredths of one percent ~~(0.76%)~~ **(0.67%)** of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

~~(4)~~ **(3)** ~~Thirty-three~~ **Twenty-nine** thousandths of one percent ~~(0.033%)~~ **(0.029%)** of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

~~(5)~~ **(4)** ~~Fourteen-hundredths~~ **One hundred twenty-three thousandths** of one percent ~~(0.14%)~~ **(0.123%)** of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

SECTION 318. IC 6-3-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 6. (a) Each taxable year, an individual who rents a dwelling for use as the individual's principal place of residence may deduct from the individual's adjusted gross income (as defined in IC 6-3-1-3.5(a)), the lesser of:

(1) the amount of rent paid by the individual with respect to the dwelling during the taxable year; or

(2) ~~two~~ **three** thousand ~~five hundred~~ dollars ~~($2,500).~~ **($3,000).**

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than ~~two~~ **three** thousand ~~five hundred~~ dollars ~~($2,500).~~ **($3,000).**

(c) The deduction provided by this section does not apply to an individual who rents a dwelling that is exempt from Indiana property tax.

(d) For purposes of this section, a "dwelling" includes a single family dwelling and unit of a multi-family dwelling.

SECTION 319. IC 6-3-4-4.1, AS AMENDED BY P.L.211-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.1. (a) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make

payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(b) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than one thousand dollars ($1,000). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(c) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to the lesser of:

(1) twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year; or

(2) the annualized income installment calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(d) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (c) or (f). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

(1) the annualized income installment calculated under subsection (c); or

(2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(e) The provisions of subsection (c) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (repealed), shall exceed two thousand five hundred dollars ($2,500) for its taxable year.

(f) If the department determines that a corporation's:

(1) estimated quarterly adjusted gross income tax liability for the current year; or

(2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds five thousand dollars ($5,000), after the credit allowed by IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(g) If a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

(h) An individual filing an estimated tax return and making an estimated tax payment under this section must designate:

(1) the portion of the estimated tax payment that represents estimated state adjusted gross income tax liability; and

(2) the portion of the estimated tax payment that represents estimated local income tax liability under IC 6-3.5.

The department shall adopt guidelines and issue instructions as necessary to assist individuals in making the designations required by this subsection.

SECTION 320. IC 6-3-4-15.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15.7. (a) The payor of a periodic or nonperiodic distribution under an annuity, a pension, a retirement, or other deferred compensation plan, as described in Section 3405 of the Internal Revenue Code, that is paid to a resident of this state

shall, upon receipt from the payee of a written request for state income tax withholding, withhold the requested amount from each payment. The request must:

(1) be dated and signed by the payee; ~~and~~

(2) specify the flat whole dollar amount to be withheld from each payment; ~~The request must also~~

(3) designate the portion of the withheld amount that represents estimated state adjusted gross income tax liability and the portion of the withheld amount that represents estimated local income tax liability under IC 6-3.5; and

(4) specify the payee's name, current address, taxpayer identification number, and the contract, policy, or account number to which the request applies.

The request shall remain in effect until the payor receives in writing from the payee a change in or revocation of the request. **The department shall adopt guidelines and issue instructions as necessary to assist individuals in making the designations required by subdivision (3).**

(b) The payor is not required to withhold state income tax from a payment if the amount to be withheld is less than ten dollars ($10) or if the amount to be withheld would reduce the affected payment to less than ten dollars ($10).

(c) The payor is responsible for custody of withheld funds, for reporting withheld funds to the state and to the payee, and for remitting withheld funds to the state in the same manner as is done for wage withholding, including utilization of federal forms and participation by Indiana in the combined Federal/State Filing Program on magnetic media.

SECTION 321. IC 6-3-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. For individual income tax returns filed after December 31, 2010, the department shall develop procedures to implement a system of crosschecks between:**

(1) employer WH-3 forms (annual withholding tax reports) with accompanying W-2 forms; and

(2) individual taxpayer W-2 forms.

SECTION 322. IC 6-3-4-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. Beginning after December 31, 2010, the department and the office of management and budget shall:**

(1) develop a quarterly report that summarizes the amount reported to and processed by the department under section 4.1(h)

of this chapter, section 15.7(a)(3) of this chapter, IC 6-3.5-1.1-18(c), IC 6-3.5-6-22(c), IC 6-3.5-7-18(c), and IC 6-3.5-8-22(c) for each county; and

(2) make the quarterly report available to county auditors within forty-five (45) days after the end of the calendar quarter.

SECTION 323. IC 6-3-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) All revenues derived from collection of the adjusted gross income tax imposed on corporations shall be deposited in the state general fund.

(b) All revenues derived from collection of the adjusted gross income tax imposed on persons shall be deposited ~~as follows:~~

~~(1) Eighty-six percent (86%)~~ in the state general fund.

~~(2) Fourteen percent (14%) in the property tax replacement fund.~~

SECTION 324. IC 6-3.1-11-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 19. The board shall consider the following factors in evaluating applications filed under this chapter:

(1) The level of distress in the surrounding community caused by the loss of jobs at the vacant industrial facility.

(2) The desirability of the intended use of the vacant industrial facility under the plan proposed by the municipality or county and the likelihood that the implementation of the plan will improve the economic and employment conditions in the surrounding community.

(3) Evidence of support for the designation by residents, businesses, and private organizations in the surrounding community.

(4) Evidence of a commitment by private or governmental entities to provide financial assistance in implementing the plan proposed by the municipality or county, including the application of IC 36-7-12, IC 36-7-13, IC 36-7-14, or IC 36-7-15.1 to assist in the financing of improvements or redevelopment activities benefiting the vacant industrial facility.

(5) Evidence of efforts by the municipality or county to implement the proposed plan without additional financial assistance from the state.

(6) Whether the industrial recovery site is within an economic revitalization area designated under IC 6-1.1-12.1.

~~(7) Whether action has been taken by the metropolitan development commission or the legislative body of the municipality or county having jurisdiction over the proposed industrial recovery site to make~~

~~the property tax credit under IC 6-1.1-20.7 available to persons owning inventory located within the industrial recovery site and meeting the other conditions established by IC 6-1.1-20.7.~~

SECTION 325. IC 6-3.1-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) An individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code is eligible for a credit under this chapter equal to ~~six percent (6%)~~ **nine percent (9%)** of the amount of the federal earned income tax credit that the individual:

(1) is eligible to receive in the taxable year; and

(2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code.

(b) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

SECTION 326. IC 6-3.5-1.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. As used in this chapter:

"Adjusted gross income" has the same definition that the term is given in IC 6-3-1-3.5(a), except that in the case of a county taxpayer who is not a resident of a county that has imposed the county adjusted gross income tax, the term includes only adjusted gross income derived from ~~his~~ **the taxpayer's** principal place of business or employment.

"Apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days.

"Civil taxing unit" means any entity having the power to impose ad valorem property taxes except a school corporation. The term does not include a solid waste management district that is not entitled to a distribution under section 1.3 of this chapter. However, in the case of a consolidated city, the term "civil taxing unit" includes the consolidated city and all special taxing districts, all special service districts, and all entities whose budgets and property tax levies are subject to review under IC 36-3-6-9.

"County council" includes the city-county council of a consolidated city.

"County taxpayer" as it relates to a county for a year means any individual:

(1) who resides in that county on the date specified in section 16 of

this chapter; or

(2) who maintains ~~his~~ **the taxpayer's** principal place of business or employment in that county on the date specified in section 16 of this chapter and who does not on that same date reside in another county in which the county adjusted gross income tax, the county option income tax, or the county economic development income tax is in effect.

"Department" refers to the Indiana department of state revenue.

"Homestead" has the meaning set forth in IC 6-1.1-12-37.

"Nonresident county taxpayer" as it relates to a county for a year means any county taxpayer for that county for that year who is not a resident county taxpayer of that county for that year.

"Qualified residential property" refers to any of the following:

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

"Resident county taxpayer" as it relates to a county for a year means any county taxpayer who resides in that county on the date specified in section 16 of this chapter.

"Residential rental property" means real property consisting of not more than four (4) units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days.

"School corporation" means any public school corporation established under Indiana law.

SECTION 327. IC 6-3.5-1.1-9, AS AMENDED BY P.L.224-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Revenue derived from the imposition of the county adjusted gross income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county adjusted gross income tax made in

the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g), and (h). The ~~department~~ **budget agency** shall provide **the county council** with ~~the certification~~ an informative summary of the calculations used to determine the certified distribution. **The summary of calculations must include:**

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-1.1-21.1.

The department shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter may be used only as specified in those provisions.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the

budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that:

(1) initially imposes the county adjusted gross income tax; or

(2) increases the county adjusted income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

SECTION 328. IC 6-3.5-1.1-14, AS AMENDED BY P.L.2-2006, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 14. (a) In determining the amount of property tax replacement credits civil taxing units and school corporations of a county are entitled to receive during a calendar year, the department of local government finance shall consider only property taxes imposed on

tangible property that was assessed in that county.

(b) If a civil taxing unit or a school corporation is located in more than one (1) county and receives property tax replacement credits from one (1) or more of the counties, then the property tax replacement credits received from each county shall be used only to reduce the property tax rates that are imposed within the county that distributed the property tax replacement credits.

(c) A civil taxing unit shall treat any property tax replacement credits that it receives or is to receive during a particular calendar year as a part of its property tax levy for that same calendar year for purposes of fixing its budget and for purposes of the property tax levy limits imposed by IC 6-1.1-18.5.

(d) Subject to subsection (e), if a civil taxing unit or school corporation of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which property tax replacement credits are being distributed, the civil taxing unit or school corporation is entitled to use the property tax replacement credits distributed to the civil taxing unit or school corporation for any purpose for which a property tax levy could be used.

(e) A school corporation shall treat any property tax replacement credits that the school corporation receives or is to receive during a particular calendar year as a part of its property tax levy for its ~~general fund,~~ debt service fund, capital projects fund, transportation fund, school bus replacement fund, and special education preschool fund in proportion to the levy for each of these funds for that same calendar year for purposes of fixing its budget. ~~and for purposes of the maximum permissible tuition support levy limits imposed by IC 20-45-3.~~ A school corporation shall allocate the property tax replacement credits described in this subsection to all ~~six (6)~~ **five (5)** funds in proportion to the levy for each fund.

SECTION 329. IC 6-3.5-1.1-15, AS AMENDED BY P.L.224-2007, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. (a) As used in this section, "attributed allocation amount" of a civil taxing unit for a calendar year means the sum of:

(1) the allocation amount of the civil taxing unit for that calendar year; plus

(2) the current ad valorem property tax levy of any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit; plus

(3) in the case of a county, an amount equal to the ~~property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund~~ **welfare allocation amount.**

The welfare allocation amount is an amount equal to the sum of the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund and, if the county received a certified distribution under this chapter or IC 6-3.5-6 in 2008, the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund and children with special health care needs county fund.

(b) The part of a county's certified distribution that is to be used as certified shares shall be allocated only among the county's civil taxing units. Each civil taxing unit of a county is entitled to receive a certified share during a calendar year in an amount determined in STEP TWO of the following formula:

STEP ONE: Divide:

(A) the attributed allocation amount of the civil taxing unit during that calendar year; by

(B) the sum of the attributed allocation amounts of all the civil taxing units of the county during that calendar year.

STEP TWO: Multiply the part of the county's certified distribution that is to be used as certified shares by the STEP ONE amount.

(c) The local government tax control board established by IC 6-1.1-18.5-11 ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall determine the attributed levies of civil taxing units that are entitled to receive certified shares during a calendar year. If the ad valorem property tax levy of any special taxing district, authority, board, or other entity is attributed to another civil taxing unit under subsection (a)(2), then the special taxing district, authority, board, or other entity shall not be treated as having an attributed allocation amount of its own. The local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall certify the attributed allocation amounts to the appropriate county auditor. The county auditor shall then allocate the certified shares among the civil taxing units of the auditor's county.

(d) Certified shares received by a civil taxing unit shall be treated as additional revenue for the purpose of fixing its budget for the calendar

year during which the certified shares will be received. The certified shares may be allocated to or appropriated for any purpose, including property tax relief or a transfer of funds to another civil taxing unit whose levy was attributed to the civil taxing unit in the determination of its attributed allocation amount.

SECTION 330. IC 6-3.5-1.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;
(2) declarations of estimated tax;
(3) filing of returns;
(4) remittances;
(5) incorporation of the provisions of the Internal Revenue Code;
(6) penalties and interest;
(7) exclusion of military pay credits for withholding; and
(8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings attributable to each county. This report shall be submitted **to the department:**

(1) each time the employer remits to the department the tax that is withheld; and

(2) annually along with the employer's annual withholding report.

SECTION 331. IC 6-3.5-1.1-24, AS ADDED BY P.L.224-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) In a county in which the county adjusted gross income tax is in effect, the county council may, before August 1 of a year, adopt an ordinance to impose or increase (as applicable) a tax rate under this section.

(b) In a county in which neither the county adjusted gross income tax nor the county option income tax is in effect, the county council may, before August 1 of a year, adopt an ordinance to impose a tax rate under this section.

(c) An ordinance adopted under this section takes effect October 1 of the year in which the ordinance is adopted. If a county council adopts an ordinance to impose or increase a tax rate under this section, the county

auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(d) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(e) The following apply only in the year in which a county council first imposes a tax rate under this section.

(1) The county council shall, in the ordinance imposing the tax rate, specify the tax rate for each of the following two (2) years.

(2) The tax rate that must be imposed in the county from October 1 of the year in which the tax rate is imposed through September 30 of the following year is equal to the result of:

(A) the tax rate determined for the county under IC 6-3.5-1.5-1(a) in the year in which the tax rate is increased; multiplied by

(B) two (2).

(3) The tax rate that must be imposed in the county from October 1 of the following year through September 30 of the year after the following year is the tax rate determined for the county under IC 6-3.5-1.5-1(b). The tax rate under this subdivision continues in effect in later years unless the tax rate is increased under this section.

(4) The levy limitations in IC 6-1.1-18.5-3(g), IC 6-1.1-18.5-3(h), IC 12-19-7-4(b) **(before its repeal),** IC 12-19-7.5-6(b) **(before its repeal),** and IC 12-29-2-2(c) apply to property taxes first due and payable in the ensuing calendar year and to property taxes first due and payable in the calendar year after the ensuing calendar year.

(f) The following apply only in a year in which a county council increases a tax rate under this section:

(1) The county council shall, in the ordinance increasing the tax rate, specify the tax rate for the following year.

(2) The tax rate that must be imposed in the county from October 1 of the year in which the tax rate is increased through September 30 of the following year is equal to the result of:

(A) the tax rate determined for the county under IC 6-3.5-1.5-1(a) in that year; plus

(B) the tax rate currently in effect in the county under this section.

The tax rate under this subdivision continues in effect in later years unless the tax rate is increased under this section.

(3) The levy limitations in IC 6-1.1-18.5-3(g), IC 6-1.1-18.5-3(h), IC 12-19-7-4(b) **(before its repeal),** IC 12-19-7.5-6(b) **(before its**

repeal), and IC 12-29-2-2(c) apply to property taxes first due and payable in the ensuing calendar year.

(g) The department of local government finance shall determine the following property tax replacement distribution amounts:

STEP ONE: Determine the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) for the county in the preceding year.

STEP TWO: For distribution to each civil taxing unit that in the year had a maximum permissible property tax levy limited under IC 6-1.1-18.5-3(g), determine the result of:

(1) the quotient of:

(A) the part of the amount determined under STEP ONE of IC 6-3.5-1.5-1(a) in the preceding year that was attributable to the civil taxing unit; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP THREE: **For distributions in 2009 and thereafter, the result of this STEP is zero (0).** For distribution to the county for deposit in the county family and children's fund **before 2009,** determine the result of:

(1) the quotient of:

(A) the amount determined under STEP TWO of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP FOUR: **For distributions in 2009 and thereafter, the result of this STEP is zero (0).** For distribution to the county for deposit in the county children's psychiatric residential treatment services fund **before 2009,** determine the result of:

(1) the quotient of:

(A) the amount determined under STEP THREE of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP FIVE: For distribution to the county for community mental health center purposes, determine the result of:

(1) the quotient of:

(A) the amount determined under STEP FOUR of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

Except as provided in subsection (m), the county treasurer shall distribute the portion of the certified distribution that is attributable to a tax rate under this section as specified in this section. The county treasurer shall make the distributions under this subsection at the same time that distributions are made to civil taxing units under section 15 of this chapter.

(h) Notwithstanding sections 3.1 and 4 of this chapter, a county council may not decrease or rescind a tax rate imposed under this chapter.

(i) The tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 2 of this chapter or any other provision of this chapter; or

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b).

(j) The tax levy under this section shall not be considered for purposes of computing the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) **(before the repeal of those provisions) or for purposes of the credit under IC 6-1.1-20.6.**

(k) A distribution under this section shall be treated as a part of the receiving civil taxing unit's property tax levy for that year for purposes of fixing the budget of the civil taxing unit and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(l) If a county council imposes a tax rate under this section, the portion of county adjusted gross income tax revenue dedicated to property tax replacement credits under section 11 of this chapter may not be decreased.

(m) In the year following the year in a which a county first imposes a tax rate under this section, one-half (1/2) of the tax revenue that is attributable to the tax rate under this section must be deposited in the county stabilization fund established under subsection (o).

(n) A pledge of county adjusted gross income taxes does not apply to revenue attributable to a tax rate under this section.

(o) A county stabilization fund is established in each county that imposes a tax rate under this section. The county stabilization fund shall be administered by the county auditor. If for a year the certified distributions attributable to a tax rate under this section exceed the amount

calculated under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) that is used by the department of local government finance and the department of state revenue to determine the tax rate under this section, the excess shall be deposited in the county stabilization fund. Money shall be distributed from the county stabilization fund in a year by the county auditor to political subdivisions entitled to a distribution of tax revenue attributable to the tax rate under this section if:

(1) the certified distributions attributable to a tax rate under this section are less than the amount calculated under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) that is used by the department of local government finance and the department of state revenue to determine the tax rate under this section for a year; or

(2) the certified distributions attributable to a tax rate under this section in a year are less than the certified distributions attributable to a tax rate under this section in the preceding year.

However, subdivision (2) does not apply to the year following the first year in which certified distributions of revenue attributable to the tax rate under this section are distributed to the county.

(p) Notwithstanding any other provision, a tax rate imposed under this section may not exceed one percent (1%).

(q) A county council must each year hold at least one (1) public meeting at which the county council discusses whether the tax rate under this section should be imposed or increased.

~~(q)~~ **(r)** The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

SECTION 332. IC 6-3.5-1.1-25, AS ADDED BY P.L.224-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) As used in this section, "public safety" refers to the following:

(1) A police and law enforcement system to preserve public peace and order.

(2) A firefighting and fire prevention system.

(3) Emergency ambulance services (as defined in IC 16-18-2-107).

(4) Emergency medical services (as defined in IC 16-18-2-110).

(5) Emergency action (as defined in IC 13-11-2-65).

(6) A probation department of a court.

(7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services.

(8) A juvenile detention facility under IC 31-31-8.

(9) A juvenile detention center under IC 31-31-9.

(10) A county jail.

(11) A communications system (as defined in IC 36-8-15-3) or an enhanced emergency telephone system (as defined in IC 36-8-16-2).

(12) Medical and health expenses for jail inmates and other confined persons.

(13) Pension payments for any of the following:

(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.

(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(b) If a county council has imposed a tax rate **of at least twenty-five hundredths of one percent (0.25%)** under section 24 of this chapter, ~~and has imposed~~ a tax rate **of at least twenty-five hundredths of one percent (0.25%)** under section 26 of this chapter, **or a total combined tax rate of at least twenty-five hundredths of one percent (0.25%) under sections 24 and 26 of this chapter,** the county council may also adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety.

(c) A tax rate under this section may not exceed ~~the lesser of:~~

~~(A)~~ twenty-five hundredths of one percent (0.25%). ~~or~~

~~(B) the tax rate imposed under section 26 of this chapter.~~

(d) If a county council adopts an ordinance to impose a tax rate under this section, the county auditor shall send a certified copy of the ordinance

to the department and the department of local government finance by certified mail.

(e) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(f) **Except as provided in subsection (k),** the county auditor shall distribute the portion of the certified distribution that is attributable to a tax rate under this section to the county and to each municipality in the county. The amount that shall be distributed to the county or municipality is equal to the result of:

(1) the portion of the certified distribution that is attributable to a tax rate under this section; multiplied by

(2) a fraction equal to:

(A) the attributed allocation amount (as defined in IC 6-3.5-1.1-15) of the county or municipality for the calendar year; divided by

(B) the sum of the attributed allocation amounts of the county and each municipality in the county for the calendar year.

The county auditor shall make the distributions required by this subsection not more than thirty (30) days after receiving the portion of the certified distribution that is attributable to a tax rate under this section. Tax revenue distributed to a county or municipality under this subsection must be deposited into a separate account or fund and may be appropriated by the county or municipality only for public safety purposes.

(g) The department of local government finance may not require a county or municipality receiving tax revenue under this section to reduce the county's or municipality's property tax levy for a particular year on account of the county's or municipality's receipt of the tax revenue.

(h) The tax rate under this section and the tax revenue attributable to the tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 2 of this chapter or any other provision of this chapter;

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b); ~~or~~

(3) the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) **(before the repeal of IC 6-1.1-21); or**

(4) the credit under IC 6-1.1-20.6.

(i) The tax rate under this section may be imposed or rescinded at the

same time and in the same manner that the county may impose or increase a tax rate under section 24 of this chapter.

(j) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(k) Two (2) or more political subdivisions that are entitled to receive a distribution under this section may adopt resolutions providing that some part or all of those distributions shall instead be paid to one (1) political subdivision in the county to carry out specific public safety purposes specified in the resolutions.

SECTION 333. IC 6-3.5-1.1-26, AS ADDED BY P.L.224-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) A county council may impose a tax rate under this section to provide property tax relief to political subdivisions in the county. A county council is not required to impose any other tax before imposing a tax rate under this section.

(b) A tax rate under this section may be imposed in increments of five hundredths of one percent (0.05%) determined by the county council. A tax rate under this section may not exceed one percent (1%).

(c) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(d) If a county council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(e) A tax rate under this section may be imposed, increased, decreased, or rescinded by a county council at the same time and in the same manner that the county council may impose or increase a tax rate under section 24 of this chapter.

(f) Tax revenue attributable to a tax rate under this section may be used for any combination of the following purposes, as specified by ordinance of the county council:

(1) **Except as provided in subsection (j),** the tax revenue may be used to provide local property tax replacement credits at a uniform rate to all taxpayers in the county. ~~Any tax revenue that is attributable to the tax rate under this section and that is used to provide local property tax replacement credits under this subdivision shall be distributed to civil taxing units and school corporations in the county in the same manner that certified distributions are~~

~~allocated as property tax replacement credits under section 12 of this chapter. The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year.~~ **The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year. A county council may not adopt an ordinance determining that tax revenue shall be used under this subdivision to provide local property tax replacement credits at a uniform rate to all taxpayers in the county unless the county council has done the following:**

(A) Made available to the public the county council's best estimate of the amount of property tax replacement credits to be provided under this subdivision to homesteads, other residential property, commercial property, industrial property, and agricultural property.

(B) Adopted a resolution or other statement acknowledging that some taxpayers in the county that do not pay the tax rate under this section will receive a property tax replacement credit that is funded with tax revenue from the tax rate under this section.

(2) The tax revenue may be used to uniformly increase **(before January 1, 2009) or uniformly provide (after December 31, 2008)** the homestead credit percentage in the county. The ~~additional~~ homestead credits shall be treated for all purposes as property tax levies. The ~~additional~~ homestead credits do not reduce the basis for determining the state homestead credit under IC 6-1.1-20.9 **(before its repeal).** The ~~additional~~ homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1. The department of local government finance shall determine the

~~additional~~ homestead credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide ~~additional~~ homestead credits in that year.

(3) The tax revenue may be used to provide local property tax replacement credits at a uniform rate for all qualified residential property (as defined in IC 6-1.1-20.6-4 **before January 1, 2009, and as defined in section 1 of this chapter after December 31, 2008)** in the county. ~~Any tax revenue that is attributable to the tax rate under this section and that is used to provide local property tax replacement credits under this subdivision shall be distributed to civil taxing units and school corporations in the county in the same manner that certified distributions are allocated as property tax replacement credits under section 12 of this chapter. The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year.~~ **The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year.**

(4) This subdivision applies only to Lake County. The Lake County council may adopt an ordinance providing that the tax revenue from the tax rate under this section is used for any of the following:

(A) To reduce all property tax levies imposed by the county by the granting of property tax replacement credits against those property tax levies.

(B) To provide local property tax replacement credits in Lake County in the following manner:

(i) The tax revenue under this section that is collected from taxpayers within a particular municipality in Lake County (as determined by the department based on the department's best estimate) shall be used only to provide a local property tax credit against property taxes imposed by

that municipality.

(ii) The tax revenue under this section that is collected from taxpayers within the unincorporated area of Lake County (as determined by the department) shall be used only to provide a local property tax credit against property taxes imposed by the county. The local property tax credit for the unincorporated area of Lake County shall be available only to those taxpayers within the unincorporated area of the county.

(C) To provide property tax credits in the following manner:

(i) Sixty percent (60%) of the tax revenue under this section shall be used as provided in clause (B).

(ii) Forty percent (40%) of the tax revenue under this section shall be used to provide property tax replacement credits against property tax levies of the county and each township and municipality in the county. The percentage of the tax revenue distributed under this item that shall be used as credits against the county's levies or against a particular township's or municipality's levies is equal to the percentage determined by dividing the population of the county, township, or municipality by the sum of the total population of the county, each township in the county, and each municipality in the county.

The Lake County council shall determine whether the credits under clause (A), (B), or (C) shall be provided to homesteads, to all qualified residential property, or to all taxpayers. The department of local government finance, with the assistance of the budget agency, shall certify to the county auditor and the fiscal body of the county and each township and municipality in the county the amount of property tax credits under this subdivision. Except as provided in subsection (g), the tax revenue under this section that is used to provide credits under this subdivision shall be treated for all purposes as property tax levies.

The county council may before October 1 of a year adopt an ordinance changing the purposes for which tax revenue attributable to a tax rate under this section shall be used in the following year.

(g) The tax rate under this section and the tax revenue attributable to the tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 2 of this chapter or any other provision of this chapter;

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b); ~~or~~

(3) **before January 1, 2009,** the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) **(before the repeal of those provisions);** or

(4) the credit under IC 6-1.1-20.6.

(h) Tax revenue under this section shall be treated as a part of the receiving civil taxing unit's or school corporation's property tax levy for that year for purposes of fixing the budget of the civil taxing unit or school corporation and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(i) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(j) A taxpayer that owns an industrial plant located in Jasper County is ineligible for a local property tax replacement credit under this section against the property taxes due on the industrial plant if the assessed value of the industrial plant as of March 1, 2006, exceeds twenty percent (20%) of the total assessed value of all taxable property in the county on that date. The general assembly finds that the provisions of this subsection are necessary because the industrial plant represents such a large percentage of Jasper County's assessed valuation.

SECTION 334. IC 6-3.5-1.5-1, AS AMENDED BY P.L.1-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The department of local government finance and the department of state revenue shall, before July 1 of each year, jointly calculate the county adjusted income tax rate or county option income tax rate (as applicable) that must be imposed in a county to raise income tax revenue in the following year equal to the sum of the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all ~~political subdivisions~~ **civil taxing units** in the county for the ensuing calendar year (before any adjustment under IC 6-1.1-18.5-3(g) or IC 6-1.1-18.5-3(h) for the ensuing calendar year); minus

(2) the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all ~~political subdivisions~~ **civil taxing units** in the county for the current calendar year.

In the case of a civil taxing unit that is located in more than one (1) county, the department of local government finance shall, for purposes of making the determination under this subdivision, apportion the civil taxing unit's maximum permissible ad valorem property tax levy among the counties in which the civil taxing unit is located.

STEP TWO: **This STEP applies only to property taxes first due and payable before January 1, 2009.** Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the family and children property tax levy that will be imposed by the county under IC 12-19-7-4 for the ensuing calendar year (before any adjustment under IC 12-19-7-4(b) for the ensuing calendar year); minus

(2) the county's family and children property tax levy imposed by the county under IC 12-19-7-4 for the current calendar year.

STEP THREE: **This STEP applies only to property taxes first due and payable before January 1, 2009.** Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the children's psychiatric residential treatment services property tax levy that will be imposed by the county under IC 12-19-7.5-6 for the ensuing calendar year (before any adjustment under IC 12-19-7.5-6(b) for the ensuing calendar year); minus

(2) the children's psychiatric residential treatment services property tax imposed by the county under IC 12-19-7.5-6 for the current calendar year.

STEP FOUR: Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the county's maximum community mental health centers property tax levy under IC 12-29-2-2 for the ensuing calendar year (before any adjustment under IC 12-29-2-2(c) for the ensuing calendar year); minus

(2) the county's maximum community mental health centers property tax levy under IC 12-29-2-2 for the current calendar year.

(b) In the case of a county that wishes to impose a tax rate under

IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) for the first time, the department of local government finance and the department of state revenue shall jointly estimate the amount that will be calculated under subsection (a) in the second year after the tax rate is first imposed. The department of local government finance and the department of state revenue shall calculate the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) that must be imposed in the county in the second year after the tax rate is first imposed to raise income tax revenue equal to the estimate under this subsection.

(c) The department and the department of local government finance shall make the calculations under subsections (a) and (b) based on the best information available at the time the calculation is made.

(d) Notwithstanding IC 6-3.5-1.1-24(h) and IC 6-3.5-6-30(h), if a county has adopted an income tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 to replace property tax levy growth, the part of the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 that was used before January 1, 2009, to reduce levy growth in the county family and children's fund property tax levy and the children's psychiatric residential treatment services property tax levy shall instead be used for property tax relief in the same manner that a tax rate under IC 6-3.5-1.1-26 or IC 6-3.5-6-30 is used for property tax relief.

SECTION 335. IC 6-3.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. As used in this chapter:

"Adjusted gross income" has the same definition that the term is given in IC 6-3-1-3.5. However, in the case of a county taxpayer who is not treated as a resident county taxpayer of a county, the term includes only adjusted gross income derived from ~~his~~ **the taxpayer's** principal place of business or employment.

"Apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days.

"Civil taxing unit" means any entity, except a school corporation, that has the power to impose ad valorem property taxes. The term does not include a solid waste management district that is not entitled to a distribution under section 1.3 of this chapter. However, in the case of a county in which a consolidated city is located, the consolidated city, the county, all special taxing districts, special service districts, included towns (as defined in IC 36-3-1-7), and all other political subdivisions except townships, excluded cities (as defined in IC 36-3-1-7), and school corporations shall be deemed to comprise one (1) civil taxing unit whose

fiscal body is the fiscal body of the consolidated city.

"County income tax council" means a council established by section 2 of this chapter.

"County taxpayer", as it relates to a particular county, means any individual:

(1) who resides in that county on the date specified in section 20 of this chapter; or

(2) who maintains ~~his~~ **the taxpayer's** principal place of business or employment in that county on the date specified in section 20 of this chapter and who does not reside on that same date in another county in which the county option income tax, the county adjusted income tax, or the county economic development income tax is in effect.

"Department" refers to the Indiana department of state revenue.

"Fiscal body" has the same definition that the term is given in IC 36-1-2-6.

"Homestead" has the meaning set forth in IC 6-1.1-12-37.

"Qualified residential property" refers to any of the following:

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

"Resident county taxpayer", as it relates to a particular county, means any county taxpayer who resides in that county on the date specified in section 20 of this chapter.

"Residential rental property" means real property consisting of not more than four (4) units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days.

"School corporation" has the same definition that the term is given in IC 6-1.1-1-16.

SECTION 336. IC 6-3.5-6-1.1, AS ADDED BY P.L.207-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1.1. (a) For purposes of allocating the certified distribution made to a county under this chapter among the civil taxing units in the county, the allocation amount for a civil taxing unit is the amount determined using the following formula:

STEP ONE: Determine the total property taxes that are first due and payable to the civil taxing unit during the calendar year of the distribution plus, for a county, an amount equal to the ~~property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.~~ **welfare allocation amount.**

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation described in subsection (b).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (c).

(C) The proceeds of any property that are:

(i) received as the result of the issuance of a debt obligation described in clause (A) or a lease described in clause (B); and

(ii) appropriated from property taxes for any purpose other than to refund or otherwise refinance a debt obligation or lease described in subsection (b) or (c).

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus

(B) the civil taxing unit or school corporation's certified distribution for the previous calendar year.

The welfare allocation amount is an amount equal to the sum of the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund and, if the county received a certified distribution under IC 6-3.5-1.1 or this chapter in 2008, the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, and children with special health care needs county fund.

(b) Except as provided in this subsection, an appropriation from property taxes to repay interest and principal of a debt obligation is not deducted from the allocation amount for a civil taxing unit if:

(1) the debt obligation was issued; and

(2) the proceeds appropriated from property taxes;

to refund or otherwise refinance a debt obligation or a lease issued before July 1, 2005. However, an appropriation from property taxes related to a debt obligation issued after June 30, 2005, is deducted if the debt extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of

the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

(c) Except as provided in this subsection, an appropriation from property taxes to make payments on a lease is not deducted from the allocation amount for a civil taxing unit if:

(1) the lease was issued; and

(2) the proceeds were appropriated from property taxes;

to refinance a debt obligation or lease issued before July 1, 2005. However, an appropriation from property taxes related to a lease entered into after June 30, 2005, is deducted if the lease extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if it had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

SECTION 337. IC 6-3.5-6-13, AS AMENDED BY P.L.224-2007, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. (a) A county income tax council of a county in which the county option income tax is in effect may adopt an ordinance to ~~increase the percentage~~ **provide a homestead** credit ~~allowed~~ for homesteads in its county. ~~under IC 6-1.1-20.9-2.~~

(b) A county income tax council may not ~~increase the percentage~~ **provide a homestead** credit ~~allowed for homesteads by an amount~~ **percentage** that exceeds the amount determined in the last STEP of the following formula:

STEP ONE: Determine the amount of the sum of all property tax levies for all taxing units in a county which are to be paid in the county in 2003 as reflected by the auditor's abstract for the 2002 assessment year, adjusted, however, for any postabstract adjustments which change the amount of the levies.

STEP TWO: Determine the amount of the county's estimated property tax replacement under IC 6-1.1-21-3(a) **(before its repeal)** for property taxes first due and payable in 2003.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the amount of the county's total county levy (as defined in IC 6-1.1-21-2(g) **before its repeal)** for property taxes

first due and payable in 2003.

STEP FIVE: Subtract the STEP FOUR amount from the STEP ONE amount.

STEP SIX: Subtract the STEP FIVE result from the STEP THREE result.

STEP SEVEN: Divide the STEP THREE result by the STEP SIX result.

STEP EIGHT: Multiply the STEP SEVEN result by eight-hundredths (0.08).

STEP NINE: Round the STEP EIGHT product to the nearest one-thousandth (0.001) and express the result as a percentage.

(c) The ~~increase of the~~ homestead credit percentage must be uniform for all homesteads in a county.

(d) In the ordinance that ~~increases~~ **establishes** the homestead credit percentage, a county income tax council may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after March 31 but before August 1 of a calendar year.

(f) An ordinance adopted under this section takes effect on January 1 of the next succeeding calendar year.

(g) Any ordinance adopted under this section for a county is repealed for a year if on January 1 of that year the county option income tax is not in effect.

SECTION 338. IC 6-3.5-6-17, AS AMENDED BY P.L.224-2007, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state

fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), and (f). The ~~department~~ **budget agency** shall provide **the county council** with ~~the certification~~ an informative summary of the calculations used to determine the certified distribution. **The summary of calculations must include:**

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-6-17.3.

The department shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter may be used only as specified in those provisions.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the

budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that:

(1) initially imposed the county option income tax; or

(2) increases the county option income tax rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 339. IC 6-3.5-6-18.5, AS AMENDED BY P.L.234-2005,

SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023
Lawrence Township	.01177
Perry Township	.01130
Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

Center Township	$1,898,145
Decatur Township	$164,103
Franklin Township	$173,934
Lawrence Township	$890,086
Perry Township	$854,544
Pike Township	$1,410,375
Warren Township	$1,027,721
Washington Township	$1,017,890
Wayne Township	$988,397
Lawrence-City	$648,848
Beech Grove	$639,017
Southport	$18,906
Speedway	$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 ~~IC 12-19-7, and IC 12-19-7.5~~ for each civil taxing unit for the calendar year in which the month falls, plus, for a county, ~~an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund,~~ **the welfare allocation amount;** divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 ~~IC 12-19-7, and IC 12-19-7.5~~ for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the ~~property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.~~ **welfare allocation amount.**

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a

distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 ~~IC 12-19-7, and IC 12-19-7.5~~ for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the ~~property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund,~~ **welfare allocation amount;** divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 ~~IC 12-19-7, and IC 12-19-7.5~~ for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the ~~property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.~~ **welfare allocation amount.**

(c) The welfare allocation amount is an amount equal to the sum of the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund and the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, thirty-five million dollars ($35,000,000).

SECTION 340. IC 6-3.5-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 22. (a) Except as otherwise provided in subsection (b) and the other provisions of this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;
(2) declarations of estimated tax;
(3) filing of returns;
(4) deductions or exemptions from adjusted gross income;
(5) remittances;
(6) incorporation of the provisions of the Internal Revenue Code;
(7) penalties and interest; and
(8) exclusion of military pay credits for withholding;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings attributable to each county. This report shall be submitted **to the department:**

(1) each time the employer remits to the department the tax that is withheld; and

(2) annually along with the employer's ~~other~~ **annual** withholding report.

SECTION 341. IC 6-3.5-6-30, AS ADDED BY P.L.224-2007, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 30. (a) In a county in which the county option income tax is in effect, the county income tax council may, before August 1 of a year, adopt an ordinance to impose or increase (as applicable) a tax rate under this section.

(b) In a county in which neither the county option adjusted gross income tax nor the county option income tax is in effect, the county income tax council may, before August 1 of a year, adopt an ordinance to impose a tax rate under this section.

(c) An ordinance adopted under this section takes effect October 1 of the year in which the ordinance is adopted. If a county income tax council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(d) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(e) The following apply only in the year in which a county income tax council first imposes a tax rate under this section:

(1) The county income tax council shall, in the ordinance imposing the tax rate, specify the tax rate for each of the following two (2) years.

(2) The tax rate that must be imposed in the county from October 1 of the year in which the tax rate is imposed through September 30 of the following year is equal to the result of:

(A) the tax rate determined for the county under IC 6-3.5-1.5-1(a) in that year; multiplied by

(B) the following:

(i) In a county containing a consolidated city, one and

five-tenths (1.5).

(ii) In a county other than a county containing a consolidated city, two (2).

(3) The tax rate that must be imposed in the county from October 1 of the following year through September 30 of the year after the following year is the tax rate determined for the county under IC 6-3.5-1.5-1(b). The tax rate under this subdivision continues in effect in later years unless the tax rate is increased under this section.

(4) The levy limitations in IC 6-1.1-18.5-3(g), IC 6-1.1-18.5-3(h), IC 12-19-7-4(b) **(before its repeal),** IC 12-19-7.5-6(b) **(before its repeal),** and IC 12-29-2-2(c) apply to property taxes first due and payable in the ensuing calendar year and to property taxes first due and payable in the calendar year after the ensuing calendar year.

(f) The following apply only in a year in which a county income tax council increases a tax rate under this section.

(1) The county income tax council shall, in the ordinance increasing the tax rate, specify the tax rate for the following year.

(2) The tax rate that must be imposed in the county from October 1 of the year in which the tax rate is increased through September 30 of the following year is equal to the result of:

(A) the tax rate determined for the county under IC 6-3.5-1.5-1(a) in the year the tax rate is increased; plus

(B) the tax rate currently in effect in the county under this section.

The tax rate under this subdivision continues in effect in later years unless the tax rate is increased under this section.

(3) The levy limitations in IC 6-1.1-18.5-3(g), IC 6-1.1-18.5-3(h), IC 12-19-7-4(b) **(before its repeal),** IC 12-19-7.5-6(b) **(before its repeal),** and IC 12-29-2-2(c) apply to property taxes first due and payable in the ensuing calendar year.

(g) The department of local government finance shall determine the following property tax replacement distribution amounts:

STEP ONE: Determine the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) for the county in the preceding year.

STEP TWO: For distribution to each civil taxing unit that in the year had a maximum permissible property tax levy limited under IC 6-1.1-18.5-3(g), determine the result of:

(1) the quotient of:

(A) the part of the amount determined under STEP ONE of

IC 6-3.5-1.5-1(a) in the preceding year that was attributable to the civil taxing unit; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP THREE: **For distributions in 2009 and thereafter, the result of this STEP is zero (0).** For distribution to the county for deposit in the county family and children's fund **before 2009,** determine the result of:

(1) the quotient of:

(A) the amount determined under STEP TWO of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP FOUR: **For distributions in 2009 and thereafter, the result of this STEP is zero (0).** For distribution to the county for deposit in the county children's psychiatric residential treatment services fund **before 2009,** determine the result of:

(1) the quotient of:

(A) the amount determined under STEP THREE of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP FIVE: For distribution to the county for community mental health center purposes, determine the result of:

(1) the quotient of:

(A) the amount determined under STEP FOUR of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

Except as provided in subsection (m), the county treasurer shall distribute the portion of the certified distribution that is attributable to a tax rate under this section as specified in this section. The county treasurer shall make the distributions under this subsection at the same time that distributions are made to civil taxing units under section 18 of this chapter.

(h) Notwithstanding sections 12 and 12.5 of this chapter, a county income tax council may not decrease or rescind a tax rate imposed under

this chapter.

(i) The tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 8 or 9 of this chapter or any other provision of this chapter; or

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b).

(j) The tax levy under this section shall not be considered for purposes of computing the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) **(before the repeal of those provisions) or for purposes of the credit under IC 6-1.1-20.6.**

(k) A distribution under this section shall be treated as a part of the receiving civil taxing unit's property tax levy for that year for purposes of fixing its budget and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(l) If a county income tax council imposes a tax rate under this section, the county option income tax rate dedicated to locally funded homestead credits in the county may not be decreased.

(m) In the year following the year in which a county first imposes a tax rate under this section:

(1) one-third (1/3) of the tax revenue that is attributable to the tax rate under this section must be deposited in the county stabilization fund established under subsection (o), in the case of a county containing a consolidated city; and

(2) one-half (1/2) of the tax revenue that is attributable to the tax rate under this section must be deposited in the county stabilization fund established under subsection (o), in the case of a county not containing a consolidated city.

(n) A pledge of county option income taxes does not apply to revenue attributable to a tax rate under this section.

(o) A county stabilization fund is established in each county that imposes a tax rate under this section. The county stabilization fund shall be administered by the county auditor. If for a year the certified distributions attributable to a tax rate under this section exceed the amount calculated under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) that is used by the department of local government finance and the department of state revenue to determine the tax rate under this section, the excess shall be deposited in the county stabilization fund. Money shall be distributed from the county stabilization fund in a year by the county

auditor to political subdivisions entitled to a distribution of tax revenue attributable to the tax rate under this section if:

(1) the certified distributions attributable to a tax rate under this section are less than the amount calculated under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) that is used by the department of local government finance and the department of state revenue to determine the tax rate under this section for a year; or

(2) the certified distributions attributable to a tax rate under this section in a year are less than the certified distributions attributable to a tax rate under this section in the preceding year.

However, subdivision (2) does not apply to the year following the first year in which certified distributions of revenue attributable to the tax rate under this section are distributed to the county.

(p) Notwithstanding any other provision, a tax rate imposed under this section may not exceed one percent (1%).

(q) A county income tax council must each year hold at least one (1) public meeting at which the county council discusses whether the tax rate under this section should be imposed or increased.

~~(q)~~ **(r)** The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

~~(r)~~ **(s)** Notwithstanding any other provision, in Lake County the county council (and not the county income tax council) is the entity authorized to take actions concerning the additional tax rate under this section.

SECTION 342. IC 6-3.5-6-31, AS ADDED BY P.L.224-2007, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. (a) As used in this section, "public safety" refers to the following:

(1) A police and law enforcement system to preserve public peace and order.

(2) A firefighting and fire prevention system.

(3) Emergency ambulance services (as defined in IC 16-18-2-107).

(4) Emergency medical services (as defined in IC 16-18-2-110).

(5) Emergency action (as defined in IC 13-11-2-65).

(6) A probation department of a court.

(7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or

the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services.

(8) A juvenile detention facility under IC 31-31-8.

(9) A juvenile detention center under IC 31-31-9.

(10) A county jail.

(11) A communications system (as defined in IC 36-8-15-3) or an enhanced emergency telephone system (as defined in IC 36-8-16-2).

(12) Medical and health expenses for jail inmates and other confined persons.

(13) Pension payments for any of the following:

(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.

(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(b) The county income tax council may adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety if:

(1) the county income tax council has imposed a tax rate under section 30 of this chapter, in the case of a county containing a consolidated city; or

(2) the county income tax council has imposed a tax rate **of at least twenty-five hundredths of one percent (0.25%)** under section 30 of this chapter, ~~and has also imposed~~ a tax rate **of at least twenty-five hundredths of one percent (0.25%)** under section 32 of this chapter, **or a total combined tax rate of at least twenty-five hundredths of one percent (0.25%) under sections 30 and 32 of this chapter,** in the case of a county other than a county containing a consolidated city.

(c) A tax rate under this section may not exceed the following:

(1) Five-tenths of one percent (0.5%), in the case of a county containing a consolidated city.

(2) ~~The lesser of:~~

~~(A)~~ Twenty-five hundredths of one percent (0.25%), ~~or~~

~~(B) the tax rate imposed under section 32 of this chapter;~~

in the case of a county other than a county containing a consolidated city.

(d) If a county income tax council adopts an ordinance to impose a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(e) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(f) **Except as provided in subsection (l),** the county auditor shall distribute the portion of the certified distribution that is attributable to a tax rate under this section to the county and to each municipality in the county. The amount that shall be distributed to the county or municipality is equal to the result of:

(1) the portion of the certified distribution that is attributable to a tax rate under this section; multiplied by

(2) a fraction equal to:

(A) the total property taxes being collected in the county by the county or municipality for the calendar year; divided by

(B) the sum of the total property taxes being collected in the county by the county and each municipality in the county for the calendar year.

The county auditor shall make the distributions required by this subsection not more than thirty (30) days after receiving the portion of the certified distribution that is attributable to a tax rate under this section. Tax revenue distributed to a county or municipality under this subsection must be deposited into a separate account or fund and may be appropriated by the county or municipality only for public safety purposes.

(g) The department of local government finance may not require a county or municipality receiving tax revenue under this section to reduce the county's or municipality's property tax levy for a particular year on account of the county's or municipality's receipt of the tax revenue.

(h) The tax rate under this section and the tax revenue attributable to the tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 8 or 9 of this chapter or any other provision of this chapter;

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b); ~~or~~

(3) the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) **(before the repeal of IC 6-1.1-21); or**

(4) the credit under IC 6-1.1-20.6.

(i) The tax rate under this section may be imposed or rescinded at the same time and in the same manner that the county may impose or increase a tax rate under section 30 of this chapter.

(j) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(k) Notwithstanding any other provision, in Lake County the county council (and not the county income tax council) is the entity authorized to take actions concerning the additional tax rate under this section.

(l) Two (2) or more political subdivisions that are entitled to receive a distribution under this section may adopt resolutions providing that some part or all of those distributions shall instead be paid to one (1) political subdivision in the county to carry out specific public safety purposes specified in the resolutions.

SECTION 343. IC 6-3.5-6-32, AS ADDED BY P.L.224-2007, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) A county income tax council may impose a tax rate under this section to provide property tax relief to political subdivisions in the county. A county income tax council is not required to impose any other tax before imposing a tax rate under this section.

(b) A tax rate under this section may be imposed in increments of five hundredths of one percent (0.05%) determined by the county income tax council. A tax rate under this section may not exceed one percent (1%).

(c) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(d) If a county income tax council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(e) A tax rate under this section may be imposed, increased, decreased,

or rescinded at the same time and in the same manner that the county income tax council may impose or increase a tax rate under section 30 of this chapter.

(f) Tax revenue attributable to a tax rate under this section may be used for any combination of the following purposes, as specified by ordinance of the county income tax council:

(1) The tax revenue may be used to provide local property tax replacement credits at a uniform rate to ~~civil taxing units and school corporations in the county. The amount of property tax replacement credits that each civil taxing unit and school corporation in a county is entitled to receive under this subdivision during a calendar year equals the product of:~~

~~(A) the tax revenue attributable to a tax rate under this section that is dedicated to property tax replacement credits under this subdivision; multiplied by~~

~~(B) the following fraction:~~

~~(i) The numerator of the fraction equals the total property taxes being collected in the county by the civil taxing unit or school corporation during the calendar year of the distribution.~~

~~(ii) The denominator of the fraction equals the sum of the total property taxes being collected in the county by all civil taxing units and school corporations of the county during the calendar year of the distribution.~~

~~The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year. The county auditor shall also certify these distributions to the county treasurer. Except as provided in subsection (g), the local property tax replacement credits shall be treated for all purposes as property tax levies.~~ **all taxpayers in the county. The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year. A county income**

tax council may not adopt an ordinance determining that tax revenue shall be used under this subdivision to provide local property tax replacement credits at a uniform rate to all taxpayers in the county unless the county council has done the following:

(A) Made available to the public the county council's best estimate of the amount of property tax replacement credits to be provided under this subdivision to homesteads, other residential property, commercial property, industrial property, and agricultural property.

(B) Adopted a resolution or other statement acknowledging that some taxpayers in the county that do not pay the tax rate under this section will receive a property tax replacement credit that is funded with tax revenue from the tax rate under this section.

(2) The tax revenue may be used to uniformly increase **(before January 1, 2009) or uniformly provide (after December 31, 2008)** the homestead credit percentage in the county. The ~~additional~~ homestead credits shall be treated for all purposes as property tax levies. The ~~additional~~ homestead credits do not reduce the basis for determining the state homestead credit under IC 6-1.1-20.9 **(before its repeal).** The ~~additional~~ homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1. The department of local government finance shall determine the ~~additional~~ homestead credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide ~~additional~~ homestead credits in that year.

(3) The tax revenue may be used to provide local property tax replacement credits at a uniform rate for all qualified residential property (as defined in IC 6-1.1-20.6-4 **before January 1, 2009, and as defined in section 1 of this chapter after December 31, 2008)** in the county. ~~The amount of property tax replacement credits that each civil taxing unit and school corporation in a county is entitled to receive under this subdivision during a calendar year equals the product of:~~

~~(A) the tax revenue attributable to a tax rate under this section that is dedicated to property tax replacement credits under this subdivision; multiplied by~~

~~(B) the following fraction:~~

~~(i) The numerator of the fraction equals the total property taxes being collected in the county by the civil taxing unit or school corporation during the calendar year of the distribution.~~

~~(ii) The denominator of the fraction equals the sum of the total property taxes being collected in the county by all civil taxing units and school corporations of the county during the calendar year of the distribution.~~

~~The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive under this subdivision. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits the civil taxing unit or school corporation is entitled to receive under this subdivision during that calendar year. The county auditor shall also certify these distributions to the county treasurer. Except as provided in subsection (g), the local property tax replacement credits shall be treated for all purposes as property tax levies.~~ **The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year.**

(4) This subdivision applies only to Lake County. The Lake County council may adopt an ordinance providing that the tax revenue from the tax rate under this section is used for any of the following:

(A) To reduce all property tax levies imposed by the county by the granting of property tax replacement credits against those property tax levies.

(B) To provide local property tax replacement credits in Lake County in the following manner:

(i) The tax revenue under this section that is collected from taxpayers within a particular municipality in Lake County (as determined by the department based on the department's best estimate) shall be used only to provide a local property tax credit against property taxes imposed by that municipality.

(ii) The tax revenue under this section that is collected from taxpayers within the unincorporated area of Lake County (as determined by the department) shall be used only to provide a local property tax credit against property taxes imposed by the county. The local property tax credit for the unincorporated area of Lake County shall be available only to those taxpayers within the unincorporated area of the county.

(C) To provide property tax credits in the following manner:

(i) Sixty percent (60%) of the tax revenue under this section shall be used as provided in clause (B).

(ii) Forty percent (40%) of the tax revenue under this section shall be used to provide property tax replacement credits against property tax levies of the county and each township and municipality in the county. The percentage of the tax revenue distributed under this item that shall be used as credits against the county's levies or against a particular township's or municipality's levies is equal to the percentage determined by dividing the population of the county, township, or municipality by the sum of the total population of the county, each township in the county, and each municipality in the county.

The Lake County council shall determine whether the credits under clause (A), (B), or (C) shall be provided to homesteads, to all qualified residential property, or to all taxpayers. The department of local government finance, with the assistance of the budget agency, shall certify to the county auditor and the fiscal body of the county and each township and municipality in the county the amount of property tax credits under this subdivision. Except as provided in subsection (g), the tax revenue under this section that is used to provide credits under this subdivision shall be treated for all purposes as property tax levies.

The county income tax council may before October 1 of a year adopt an ordinance changing the purposes for which tax revenue attributable to a tax rate under this section shall be used in the following year.

(g) The tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county

under section 8 or 9 of this chapter or any other provision of this chapter; ~~or~~

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b); **or**

(3) the credit under IC 6-1.1-20.6.

(h) Tax revenue under this section shall be treated as a part of the receiving civil taxing unit's or school corporation's property tax levy for that year for purposes of fixing the budget of the civil taxing unit or school corporation and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(i) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(j) Notwithstanding any other provision, in Lake County the county council (and not the county income tax council) is the entity authorized to take actions concerning the tax rate under this section.

SECTION 344. IC 6-3.5-7-5, AS AMENDED BY HEA 1137-2008, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on March 31 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on March 31 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) and section 28 of this chapter, the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%);

(6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), (s), (v), (w),-(x), or (y), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), (p), (r), (t), (u), (w), (x), or (y), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after March 31 but before August 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect October 1 of this year.".

(e) Any ordinance adopted under this chapter takes effect ~~July~~ **October** 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than

two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1 **before January 1, 2009, or IC 6-1.1-12-37 after December 31, 2008)** or residential property (as defined in section 26 of this chapter), as appropriate under the ordinance adopted by the adopting body in the county, resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42 **or from the exclusion in 2008 of inventory from the definition of personal property in IC 6-1.1-1-11.**

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(u) This subsection applies to Scott County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(v) This subsection applies to Jasper County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(w) An additional county economic development income tax rate imposed under section 28 of this chapter may not be considered in calculating any limit under this section on the sum of:

(1) the county economic development income tax rate plus the county adjusted gross income tax rate; or

(2) the county economic development tax rate plus the county option income tax rate.

(x) The income tax rate limits imposed by subsection (c) or ~~(x)~~ **(y)** or any other provision of this chapter do not apply to:

(1) a county adjusted gross income tax rate imposed under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26; or

(2) a county option income tax rate imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.

For purposes of computing the maximum combined income tax rate under subsection (c) or ~~(x)~~ **(y)** or any other provision of this chapter that may be imposed in a county under IC 6-3.5-1.1, IC 6-3.5-6, and this chapter, a county's county adjusted gross income tax rate or county option income tax rate for a particular year does not include the county adjusted gross income tax rate imposed under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 or the county option income tax rate imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.

(y) This subsection applies to Monroe County. Except as provided in subsection (p), if an ordinance is adopted under IC 6-3.5-6-33, the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

SECTION 345. IC 6-3.5-7-11, AS AMENDED BY P.L.207-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the department determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), and (g). The ~~department~~ **budget agency** shall provide **the county council** with ~~the certification~~ an informative summary of the calculations used to determine the certified distribution. **The summary of calculations must include:**

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-7-17.3.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

(f) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

(g) This subsection applies to a county that:

(1) initially imposed the county economic development income tax; or

(2) increases the county economic development income rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (c).

SECTION 346. IC 6-3.5-7-12, AS AMENDED BY P.L.232-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) Except as provided in sections 23, 25, 26, 27, and 28 of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

(1) The amount of the certified distribution for that month; multiplied by

(2) A fraction. The numerator of the fraction equals the sum of: ~~the following:~~

(A) total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) for a county, ~~an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.~~ **the welfare allocation amount.**

The denominator of the fraction equals the sum of the total property

taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus **the welfare allocation amount. The welfare allocation amount is** an amount equal to the **sum of the** property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund **and, if the county received a certified distribution under this chapter in 2008, the property taxes imposed by the county in 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, and children with special health care needs county fund.**

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

(A) the amount of the certified distribution for the month; multiplied by

(B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city or town in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 347. IC 6-3.5-7-13.1, AS AMENDED BY P.L.1-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) **As used in this subsection, "homestead" means a homestead that is eligible for a standard deduction under IC 6-1.1-12-37.** Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or

bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

(4) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that

results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for ~~additional~~ homestead credits under subdivision (5).

(5) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). ~~Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision.~~ All of the tax revenue that results each year from a tax rate increase described in subdivision (4) that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for ~~additional~~ homestead credits under this subdivision. The following apply to ~~additional~~ homestead credits provided under this subdivision:

(A) The ~~additional~~ homestead credits must be applied uniformly to ~~increase the~~ **provide a** homestead credit ~~under IC 6-1.1-20.9~~ for homesteads in the county, city, or town.

(B) The ~~additional~~ homestead credits shall be treated for all purposes as property tax levies. ~~The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.~~

(C) The ~~additional~~ homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the ~~additional~~ homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide ~~additional~~ homestead credits in that year.

(6) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). ~~Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision.~~ A county or a city or town in the county may use county economic development income tax revenue to provide ~~additional~~ homestead credits in the county, city, or town. The following apply to ~~additional~~

homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the ~~additional~~ homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide ~~additional~~ homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The ~~additional~~ homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town **(for property taxes first due and payable before January 1, 2009) or to provide a homestead credit for homesteads in the county, city, or town (for property taxes first due and payable after December 31, 2008).**

(D) The ~~additional~~ homestead credits shall be treated for all purposes as property tax levies. ~~The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.~~

(E) The ~~additional~~ homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the ~~additional~~ homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide ~~additional~~ homestead credits in that year.

(7) For a regional venture capital fund established under section 13.5 of this chapter or a local venture capital fund established under section 13.6 of this chapter.

(8) This subdivision applies only to a county:

(A) that has a population of more than one hundred ten thousand

(110,000) but less than one hundred fifteen thousand (115,000); and

(B) in which:

(i) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and

(ii) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

Revenue from the county economic development income tax may be used by a county or a city described in this subdivision for making transfers required by IC 36-7.5-4-2. In addition, if the county economic development income tax rate is increased after June 30, 2006, in the county, the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. All of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for ~~additional~~ homestead credits under subdivision (9).

(9) This subdivision applies only to a county described in subdivision (8). ~~Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision.~~ All of the tax revenue that results each year from a tax rate increase described in subdivision (8) that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for ~~additional~~ homestead credits under this subdivision. The following apply to ~~additional~~ homestead credits provided under this subdivision:

(A) The ~~additional~~ homestead credits must be applied uniformly

to ~~increase the~~ **provide a** homestead credit ~~under IC 6-1.1-20.9~~ for homesteads in the county, city, or town.

(B) The ~~additional~~ homestead credits shall be treated for all purposes as property tax levies. ~~The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.~~

(C) The ~~additional~~ homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the ~~additional~~ homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide ~~additional~~ homestead credits in that year.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

SECTION 348. IC 6-3.5-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;

(2) declarations of estimated tax;

(3) filing of returns;

(4) remittances;

(5) incorporation of the provisions of the Internal Revenue Code;

(6) penalties and interest;

(7) exclusion of military pay credits for withholding; and

(8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) The provisions of ~~IC~~ IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings attributable to each county. This report shall be submitted **to the department:**

(1) each time the employer remits to the department the tax that is withheld; and

(2) annually along with the employer's annual withholding report.

SECTION 349. IC 6-3.5-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 23. (a) This section applies only to a county having a population of more than fifty-five thousand (55,000) but less than sixty-five thousand (65,000).

(b) The county council may by ordinance determine that, in order to promote the development of libraries in the county and thereby encourage economic development, it is necessary to use economic development income tax revenue to replace library property taxes in the county.

However, a county council may adopt an ordinance under this subsection only if all territory in the county is included in a library district.

(c) If the county council makes a determination under subsection (b), the county council may designate the county economic development income tax revenue generated by the tax rate adopted under section 5 of this chapter, or revenue generated by a portion of the tax rate, as revenue that will be used to replace public library property taxes imposed by public libraries in the county. The county council may not designate for library property tax replacement purposes any county economic development income tax revenue that is generated by a tax rate of more than fifteen-hundredths percent (0.15%).

(d) The county treasurer shall establish a library property tax replacement fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the portion of the tax rate designated for property tax replacement credits under subsection (c) shall be deposited in the library property tax replacement fund before certified distributions are made under section 12 of this chapter. Any interest earned on money in the library property tax replacement fund shall be credited to the library property tax replacement fund.

(e) The amount of county economic development income tax revenue dedicated to providing library property tax replacement credits shall, in the manner prescribed in this section, be allocated to public libraries operating in the county and shall be used by those public libraries as property tax replacement credits. The amount of property tax replacement credits that each public library in the county is entitled to receive during a calendar year under this section equals the lesser of:

(1) the product of:

(A) the amount of revenue deposited by the county auditor in the library property tax replacement fund; multiplied by

(B) a fraction described as follows:

(i) The numerator of the fraction equals the sum of the total property taxes that would have been collected by the public library during the previous calendar year from taxpayers located within the library district if the property tax replacement under this section had not been in effect.

(ii) The denominator of the fraction equals the sum of the total property taxes that would have been collected during the previous year from taxpayers located within the county by all public libraries that are eligible to receive property tax

replacement credits under this section if the property tax replacement under this section had not been in effect; or

(2) the total property taxes that would otherwise be collected by the public library for the calendar year if the property tax replacement credit under this section were not in effect.

The department of local government finance shall make any adjustments necessary to account for the expansion of a library district. However, a public library is eligible to receive property tax replacement credits under this section only if it has entered into reciprocal borrowing agreements with all other public libraries in the county. If the total amount of county economic development income tax revenue deposited by the county auditor in the library property tax replacement fund for a calendar year exceeds the total property tax liability that would otherwise be imposed for public libraries in the county for the year, the excess shall remain in the library property tax replacement fund and shall be used for library property tax replacement purposes in the following calendar year.

(f) Notwithstanding subsection (e), if a public library did not impose a property tax levy during the previous calendar year, that public library is entitled to receive a part of the property tax replacement credits to be distributed for the calendar year. The amount of property tax replacement credits the public library is entitled to receive during the calendar year equals the product of:

(1) the amount of revenue deposited in the library property tax replacement fund; multiplied by

(2) a fraction. The numerator of the fraction equals the budget of the public library for that calendar year. The denominator of the fraction equals the aggregate budgets of public libraries in the county for that calendar year.

If for a calendar year a public library is allocated a part of the property tax replacement credits under this subsection, then the amount of property tax credits distributed to other public libraries in the county for the calendar year shall be reduced by the amount to be distributed as property tax replacement credits under this subsection. The department of local government finance shall make any adjustments required by this subsection and provide the adjustments to the county auditor.

(g) The department of local government finance shall inform the county auditor of the amount of property tax replacement credits that each public library in the county is entitled to receive under this section. The county auditor shall certify to each public library the amount of property tax replacement credits that the public library is entitled to receive during

that calendar year. The county auditor shall also certify these amounts to the county treasurer.

(h) A public library receiving property tax replacement credits under this section shall allocate the credits among each fund for which a distinct property tax levy is imposed. The amount that must be allocated to each fund equals:

(1) the amount of property tax replacement credits provided to the public library under this section; multiplied by

(2) the amount determined in STEP THREE of the following formula:

STEP ONE: Determine the property taxes that would have been collected for each fund by the public library during the previous calendar year if the property tax replacement under this section had not been in effect.

STEP TWO: Determine the sum of the total property taxes that would have been collected for all funds by the public library during the previous calendar year if the property tax replacement under this section had not been in effect.

STEP THREE: Divide the STEP ONE amount by the STEP TWO amount.

However, if a public library did not impose a property tax levy during the previous calendar year or did not impose a property tax levy for a particular fund during the previous calendar year, but the public library is imposing a property tax levy in the current calendar year or is imposing a property tax levy for the particular fund in the current calendar year, the department of local government finance shall adjust the amount of property tax replacement credits allocated among the various funds of the public library and shall provide the adjustment to the county auditor. If a public library receiving property tax replacement credits under this section does not impose a property tax levy for a particular fund that is first due and payable in a calendar year in which the property tax replacement credits are being distributed, the public library is not required to allocate to that fund a part of the property tax replacement credits to be distributed to the public library. Notwithstanding IC 6-1.1-20-1.1(1), a public library that receives property tax replacement credits under this section is subject to the procedures for the issuance of bonds set forth in IC 6-1.1-20.

(i) For each public library that receives property tax credits under this section, the department of local government finance shall certify to the county auditor the property tax rate applicable to each fund after the property tax replacement credits are allocated.

(j) A public library shall treat property tax replacement credits received during a particular calendar year under this section as a part of the public library's property tax levy for each fund for that same calendar year for purposes of fixing the public library's budget and for purposes of the property tax levy limits imposed by IC 6-1.1-18.5.

(k) ~~The property tax replacement credits that are received under this section do not reduce the total county tax levy that is used to compute the state property tax replacement credit under IC 6-1.1-21.~~ For the purpose of computing and distributing certified distributions under IC 6-3.5-1.1 and tax revenue under IC 6-5.5 or IC 6-6-5, the property tax replacement credits that are received under this section shall be treated as though they were property taxes that were due and payable during that same calendar year.

SECTION 350. IC 6-3.5-7-26, AS AMENDED BY P.L.224-2007, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 26. (a) This section applies only to homestead and property tax replacement credits for property taxes first due and payable after calendar year 2006.

(b) The following definitions apply throughout this section:

(1) "Adopt" includes amend.

(2) "Adopting entity" means:

(A) the entity that adopts an ordinance under IC 6-1.1-12-41(f); or

(B) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(3) "Homestead" refers to tangible property that is eligible for a homestead credit under IC 6-1.1-20.9 **or the standard deduction under IC 6-1.1-12-37.**

(4) "Residential" refers to the following:

(A) Real property, a mobile home, and industrialized housing that would qualify as a homestead if the taxpayer had filed for a homestead credit under IC 6-1.1-20.9 **or the standard deduction under IC 6-1.1-12-37.**

(B) Real property not described in clause (A) designed to provide units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more, regardless of whether the tangible property is subject to assessment under rules of the department of local government finance that apply to:

(i) residential property; or

(ii) commercial property.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1, 2006, and before June 1, 2006, or, in a year following 2006, after March 31 but before August 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and

(2) must specify that the certified distribution must be used to provide for one (1) of the following, as determined by the adopting entity:

(A) Uniformly applied ~~increased~~ homestead credits as provided in subsection (f).

(B) Uniformly applied ~~increased~~ residential credits as provided in subsection (g).

(C) Allocated ~~increased~~ homestead credits as provided in subsection (i).

(D) Allocated ~~increased~~ residential credits as provided in subsection (j).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection (k); and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to:

(1) increase:

~~(1)~~ **(A)** if the ordinance grants a credit described in subsection

(c)(2)(A) or (c)(2)(C), the homestead credit allowed in the county under IC 6-1.1-20.9 for a year; or

~~(2)~~ **(B)** if the ordinance grants a credit described in subsection (c)(2)(B) or (c)(2)(D), the property tax replacement credit allowed in the county under IC 6-1.1-21-5 for a year for the residential property;

for property taxes first due and payable before January 1, 2009; or

(2) provide:

(A) if the ordinance grants a credit described in subsection (c)(2)(A) or (c)(2)(C), a homestead credit for homesteads; or

(B) if the ordinance grants a credit described in subsection (c)(2)(B) or (c)(2)(D), a property tax replacement credit for residential property;

for property taxes first due and payable after December 31, 2008;

to offset the effect on homesteads or residential property, as applicable, in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42 **or from the exclusion in 2008 of inventory from the definition of personal property in IC 6-1.1-1-11.** The amount of ~~an additional~~ **a** residential property tax replacement credit granted under this section may not be considered in computing the amount of any homestead credit to which the residential property may be entitled under IC 6-1.1-20.9 **(before its repeal)** or another law other than IC 6-1.1-20.6.

(f) If the imposing entity specifies the application of uniform ~~increased~~ homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which ~~an increased~~ **a** homestead credit percentage is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide ~~an increased~~ **a** homestead credit percentage **under this section** for the year;

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the ~~increased~~ percentage of homestead credit **under this section** that equates to the amount of homestead credits determined under subdivision (2).

(g) If the imposing entity specifies the application of uniform ~~increased~~ residential credits under subsection (c)(2)(B), the county auditor shall determine for each calendar year in which ~~an increased~~ **a** homestead credit

percentage is authorized under this section:

(1) the amount of the certified distribution that is available to provide ~~an increased~~ **a** residential property tax replacement credit percentage for the year;

(2) the amount of uniformly applied residential property tax replacement credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the ~~increased~~ percentage of residential property tax replacement credit **under this section** that equates to the amount of residential property tax replacement credits determined under subdivision (2).

(h) The ~~increased~~ percentage of homestead credit determined by the county auditor under subsection (f) or the ~~increased~~ percentage of residential property tax replacement credit determined by the county auditor under subsection (g) applies uniformly in the county in the calendar year for which the ~~increased~~ percentage is determined.

(i) If the imposing entity specifies the application of allocated ~~increased~~ homestead credits under subsection (c)(2)(C), the county auditor shall, for each calendar year in which ~~an increased~~ **a** homestead credit is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide ~~an increased~~ **a** homestead credit **under this section** for the year; and

(2) except as provided in subsection (l), ~~an increased~~ **a** percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of ~~increased~~ homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the ~~immediately preceding year's~~ assessment date **in 2006** bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the ~~immediately preceding year's~~ assessment date **in 2006.**

(j) If the imposing entity specifies the application of allocated ~~increased~~ residential property tax replacement credits under subsection (c)(2)(D), the county auditor shall determine for each calendar year in which ~~an increased~~ **a** residential property tax replacement credit is authorized under this section:

(1) the amount of the certified distribution that is available to provide ~~an increased~~ **a** residential property tax replacement credit **under this section** for the year; and

(2) except as provided in subsection (l), ~~an increased~~ **a** percentage of

residential property tax replacement credit for each taxing district in the county that allocates to the taxing district an amount of ~~increased~~ residential property tax replacement credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the ~~immediately preceding year's~~ assessment date **in 2006** bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the ~~immediately preceding year's~~ assessment date **in 2006.**

(k) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the ~~increase of the~~ homestead credit or residential property tax replacement credit **provided under this section** within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

(1) as if the money were from property tax collections; and

(2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of ~~an increased~~ **a** homestead credit or residential property tax replacement credit **under this section.**

(l) Subject to the approval of the imposing entity, the county auditor may adjust the increased percentage of:

(1) homestead credit determined under subsection (i)(2) if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the homesteads in the county; or

(2) residential property tax replacement credit determined under subsection (j)(2) if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the residential property in the county.

SECTION 351. IC 6-5.5-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) On or before February 1, May 1, August 1, and December 1 of each year the auditor of state shall transfer to each county auditor for distribution to the taxing units (as defined in IC 6-1.1-1-21) in the county, an amount equal to one-fourth (1/4) of the sum of the guaranteed amounts for all the taxing units of the county. On or before August 1 of each year the auditor of state shall transfer to each county auditor the supplemental distribution for the county for the year.

(b) For purposes of determining distributions under subsection (c), the department of local government finance shall determine a state welfare

allocation **and tuition support allocation** for each county calculated as follows:

(1) ~~For 2000 and each year thereafter,~~ The state welfare allocation for each county equals the greater of zero (0) or the amount determined under the following formula:

STEP ONE: For 1997, 1998, and 1999, determine the result of:

~~(A)~~ **(i)** the amounts appropriated by the county in the year for the county's county welfare fund and county welfare administration fund; divided by

~~(B)~~ **(ii)** the amounts appropriated by all the taxing units in the county in the year.

STEP TWO: Determine the sum of the results determined in STEP ONE.

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount that would otherwise be distributed to ~~all the taxing units in~~ the county under subsection ~~(b)~~ **(c)** without regard to this subdivision.

STEP FIVE: Determine the result of:

~~(A)~~ **(i)** the STEP FOUR amount; multiplied by

~~(B)~~ **(ii)** the STEP THREE result.

STEP SIX: For 2006, 2007, and 2008, determine the result of:

(i) the tax rate imposed by the county in the year for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, and children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed by the county unit in the year plus, in the case of Marion County, the aggregate tax rate imposed by the health and hospital corporation in the year.

STEP SEVEN: Determine the sum of the STEP SIX amounts.

STEP EIGHT: Divide the STEP SEVEN result by three (3).

STEP NINE: Determine the amount that would otherwise be distributed to the county under subsection (c) without regard to this subdivision.

STEP TEN: Determine the result of:

(i) the STEP EIGHT amount; multiplied by

(ii) the STEP NINE result.

STEP ELEVEN: Determine the sum of the STEP FIVE amount and the STEP TEN amount.

(2) The tuition support allocation for each school corporation equals the greater of zero (0) or the amount determined under the following formula:

STEP ONE: For 2006, 2007, and 2008, determine the result of:

(i) the tax rate imposed by the school corporation in the year for the tuition support levy under IC 6-1.1-19-1.5 (repealed) or IC 20-45-3-11 (repealed) for the school corporation's general fund plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund; divided by

(ii) the aggregate tax rate imposed by the school corporation in the year.

STEP TWO: Determine the sum of the results determined under STEP ONE.

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount that would otherwise be distributed to the school corporation under subsection (c) without regard to this subdivision.

STEP FIVE: Determine the result of:

(i) the STEP FOUR amount; multiplied by

(ii) the STEP THREE result.

~~(2)~~ **(3)** The state welfare allocation **and tuition support allocation** shall be deducted from the distributions otherwise payable under subsection (c) to the **county** taxing unit ~~that is a county~~ **and school corporations in the county** and shall be deposited in a ~~special account within the state general~~ fund, **as directed by the budget agency.**

(c) A taxing unit's guaranteed distribution for a year is the greater of zero (0) or an amount equal to:

(1) the amount received by the taxing unit under IC 6-5-10 (repealed) and IC 6-5-11 (repealed) in 1989; minus

(2) the amount to be received by the taxing unit in the year of the distribution, as determined by the department of local government finance, from property taxes attributable to the personal property of

banks, exclusive of the property taxes attributable to personal property leased by banks as the lessor where the possession of the personal property is transferred to the lessee; minus

(3) in the case of a taxing unit that is a county, the amount that would have been received by the taxing unit in the year of the distribution, as determined by the department of local government finance from property taxes that:

(A) were calculated for the county's county welfare fund and county welfare administration fund for 2000 but were not imposed because of the repeal of IC 12-19-3 and IC 12-19-4; and

(B) would have been attributable to the personal property of banks, exclusive of the property taxes attributable to personal property leased by banks as the lessor where the possession of the personal property is transferred to the lessee.

(d) The amount of the supplemental distribution for a county for a year shall be determined using the following formula:

STEP ONE: Determine the greater of zero (0) or the difference between:

(A) one-half (1/2) of the taxes that the department estimates will be paid under this article during the year; minus

(B) the sum of all the guaranteed distributions, before the subtraction of all state welfare allocations **and tuition support allocations** under subsection ~~(a),~~ **(b),** for all taxing units in all counties plus the bank personal property taxes to be received by all taxing units in all counties, as determined under subsection (c)(2) for the year.

STEP TWO: Determine the quotient of:

(A) the amount received under IC 6-5-10 (repealed) and IC 6-5-11 (repealed) in 1989 by all taxing units in the county; divided by

(B) the sum of the amounts received under IC 6-5-10 (repealed) and IC 6-5-11 (repealed) in 1989 by all taxing units in all counties.

STEP THREE: Determine the product of:

(A) the amount determined in STEP ONE; multiplied by

(B) the amount determined in STEP TWO.

STEP FOUR: Determine the greater of zero (0) or the difference between:

(A) the amount of supplemental distribution determined in STEP THREE for the county; minus

(B) the amount of refunds granted under IC 6-5-10-7 (repealed) that have yet to be reimbursed to the state by the county treasurer under IC 6-5-10-13 (repealed).

For the supplemental distribution made on or before August 1 of each year, the department shall adjust the amount of each county's supplemental distribution to reflect the actual taxes paid under this article for the preceding year.

(e) Except as provided in ~~subsection~~ **subsections** (g) **and (h),** the amount of the supplemental distribution for each taxing unit shall be determined using the following formula:

STEP ONE: Determine the quotient of:

(A) the amount received by the taxing unit under IC 6-5-10 (repealed) and IC 6-5-11 (repealed) in 1989; divided by

(B) the sum of the amounts used in STEP ONE (A) for all taxing units located in the county.

STEP TWO: Determine the product of:

(A) the amount determined in STEP ONE; multiplied by

(B) the supplemental distribution for the county, as determined in subsection (d), STEP FOUR.

(f) The county auditor shall distribute the guaranteed and supplemental distributions received under subsection (a) to the taxing units in the county at the same time that the county auditor makes the semiannual distribution of real property taxes to the taxing units.

(g) The amount of a supplemental distribution paid to a taxing unit that is a county shall be reduced by an amount equal to:

~~(1) the amount the county would receive under subsection (e) without regard to this subsection minus~~

~~(2)~~ **(1)** an amount equal to:

(A) the amount ~~under subdivision (1)~~ **the county would receive under subsection (e) without regard to this subsection;** multiplied by

(B) the result of the following:

(i) Determine the amounts appropriated by the county in 1997, 1998, and 1999 ~~from~~ **for** the county's county welfare fund and county welfare administration fund, divided by the ~~t~~otal amounts appropriated by all the taxing units in the county in the year.

(ii) Divide the amount determined in item (i) by three (3); **plus**

(2) the amount the county would receive under subsection (e) without regard to this subsection multiplied by the result

determined under the following formula:

(A) Determine the result of:

(i) the tax rate imposed by the county in 2006, 2007, and 2008 for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed by the county in the year plus, in the case of Marion County, the aggregate tax rate imposed by the health and hospital corporation in the year.

(B) Divide the clause (A) amount by three (3).

(h) The amount of a supplemental distribution paid to a school corporation shall be reduced by an amount equal to:

(1) the amount the school corporation would receive under subsection (e) without regard to this subsection; minus

(2) an amount equal to:

(A) the amount described in subdivision (1); multiplied by

(B) the result of the following formula:

(i) Determine the tax rate imposed by the school corporation in 2006, 2007, and 2008 for the tuition support levy under IC 6-1.1-19-1.5 (repealed) or IC 20-45-3-11 (repealed) for the school corporation's general fund plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund, divided by the aggregate tax rate imposed by the school corporation in the year.

(ii) Divide the item (i) amount by three (3).

(i) The amounts deducted under subsections (g) and (h) shall be deposited in a state fund, as directed by the budget agency.

SECTION 352. IC 6-6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) There is imposed an annual license excise tax upon vehicles, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes, but in addition to any registration fees imposed on such vehicles.

(b) The tax imposed by this chapter is a listed tax and subject to the

provisions of IC 6-8.1.

(c) No vehicle, as defined in section 1 of this chapter, ~~excepting vehicles in the inventory of vehicles held for sale by a manufacturer, distributor or dealer in the course of business,~~ shall be assessed as personal property for the purpose of the assessment and levy of personal property taxes or shall be subject to ad valorem taxes whether or not such vehicle is in fact registered pursuant to the motor vehicle registration laws. No person shall be required to give proof of the payment of ad valorem property taxes as a condition to the registration of any vehicle that is subject to the tax imposed by this chapter.

SECTION 353. IC 6-6-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) The bureau shall establish procedures necessary for the collection of the tax imposed by this chapter and for the proper accounting for the same. The necessary forms and records shall be subject to approval by the state board of accounts.

(b) The county treasurer, upon receiving the excise tax collections, shall receipt such collections into a separate account for settlement thereof at the same time as property taxes are accounted for and settled in June and December of each year, with the right and duty of the treasurer and auditor to make advances prior to the time of final settlement of such property taxes in the same manner as provided in IC 5-13-6-3.

(c) **As used in this subsection, "taxing district" has the meaning set forth in IC 6-1.1-1-20, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, and "tuition support levy" refers to a school corporation's tuition support property tax levy under IC 20-45-3-11 (repealed) for the school corporation's general fund.** The county auditor shall determine the total amount of excise taxes collected for each taxing ~~unit~~ **district** in the county and the amount so collected (and the distributions received under section 9.5 of this chapter) shall be apportioned and distributed among the respective funds of ~~each~~ **the** taxing ~~unit~~ **units** in the same manner and at the same time as property taxes are apportioned and distributed. However, for purposes of determining distributions under this section for ~~2000~~ **2009** and each year thereafter, ~~the state welfare allocation for each county equals the greater of zero (0) or the amount determined under STEP FIVE of the following STEPS:~~

~~STEP ONE: For 1997, 1998, and 1999, determine the result of:~~

~~(i) the amounts appropriated by the county in the year from the county's county welfare fund and county welfare administration fund; divided by~~

~~(ii) the total amounts appropriated by all the taxing units in the~~

~~county in the year.~~

~~STEP TWO: Determine the sum of the results determined in STEP ONE.~~

~~STEP THREE: Divide the STEP TWO result by three (3).~~

~~STEP FOUR: Determine the amount that would otherwise be distributed to all the taxing units in the county under this subsection without regard to this subdivision.~~

~~STEP FIVE: Determine the result of:~~

~~(i) the STEP FOUR amount; multiplied by~~

~~(ii) the STEP THREE result.~~

~~The~~ **a** state welfare **and tuition support** allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare **and tuition support** allocation to the treasurer of state for deposit, ~~in a special account within the state general fund.~~ **as directed by the budget agency. The amount of the state welfare and tuition support allocation for a county for a particular year is equal to the result determined under STEP FOUR of the following formula:**

STEP ONE: Determine the result of the following:

(A) Separately for 1997, 1998, and 1999 for each taxing district in the county, determine the result of:

(i) the amount appropriated in the year by the county from the county's county welfare fund and county welfare administration fund; divided by

(ii) the total amounts appropriated by all taxing units in the county for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

STEP TWO: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tax rate imposed in the taxing district for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential

treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district after subtracting the STEP ONE (D) amount for the same taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP THREE: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tuition support levy tax rate imposed in the taxing district plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund in the district; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district after subtracting the STEP ONE (D) amount for the same taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP FOUR: Determine the sum of the STEP ONE, STEP TWO, and STEP THREE amounts for the county.

If the boundaries of a taxing district change after the years for which a ratio is calculated under STEP ONE, STEP TWO, or STEP THREE, the budget agency shall establish a ratio for the new taxing district that reflects the tax rates imposed in the predecessor taxing districts.

(d) Such determination shall be made from copies of vehicle registration forms furnished by the bureau of motor vehicles. Prior to such determination, the county assessor of each county shall, from copies of registration forms, cause information pertaining to legal residence of persons owning taxable vehicles to be verified from the assessor's records, to the extent such verification can be so made. The assessor shall further identify and verify from the assessor's records the several taxing units within which such persons reside.

(e) Such verifications shall be done by not later than thirty (30) days after receipt of vehicle registration forms by the county assessor, and the assessor shall certify such information to the county auditor for the auditor's use as soon as it is checked and completed.

SECTION 354. IC 6-6-5.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 20. (a) On or before May 1, **subject to subsections (c) and (d),** the auditor of state shall distribute to each county auditor an amount equal to fifty percent (50%) of the total base revenue to be distributed to all taxing units in the county for that year.

(b) On or before December 1, **subject to subsections (c) and (d),** the auditor of state shall distribute to each county auditor an amount equal to the greater of the following:

(1) Fifty percent (50%) of the total base revenue to be distributed to all taxing units in the county for that year.

(2) The product of the county's distribution percentage multiplied by the total commercial vehicle excise tax revenue deposited in the commercial vehicle excise tax fund.

(c) Before distributing the amounts under subsections (a) and (b), the auditor of state shall deduct for a county unit an amount for deposit in a state fund, as directed by the budget agency, equal to the result determined under STEP FIVE of the following formula:

STEP ONE: Separately for 2006, 2007, and 2008, determine the result of:

(A) the tax rate imposed by the county in the year for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund,

children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(B) the aggregate tax rate imposed by the county unit and, in the case of Marion County, the health and hospital corporation in the year.

STEP TWO: Determine the sum of the STEP ONE amounts.

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount that would otherwise be distributed to the county under subsection (a) or (b), as appropriate, without regard to this subsection.

STEP FIVE: Determine the result of:

(A) the STEP THREE amount; multiplied by

(B) the STEP FOUR result.

(d) Before distributing the amounts under subsections (a) and (b), the auditor of state shall deduct for a school corporation an amount for deposit in a state fund, as directed by the budget agency, equal to the result determined under STEP FIVE of the following formula:

STEP ONE: Separately for 2006, 2007, and 2008, determine the result of:

(A) the tax rate imposed by the school corporation in the year for the tuition support levy under IC 6-1.1-19-1.5 (repealed) or IC 20-45-3-11 (repealed) for the school corporation's general fund plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund; divided by

(B) the aggregate tax rate imposed by the school corporation in the year.

STEP TWO: Determine the sum of the results determined under STEP ONE.

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount of commercial vehicle excise tax that would otherwise be distributed to the school corporation under subsection (a) or (b), as appropriate, without regard to this subsection.

STEP FIVE: Determine the result of:

(A) the STEP FOUR amount; multiplied by

(B) the STEP THREE result.

~~(c)~~ **(e)** Upon receipt, the county auditor shall distribute to the taxing units an amount equal to the product of the taxing unit's distribution percentage multiplied by the total distributed to the county under this section. The amount determined shall be apportioned and distributed among the respective funds of each taxing unit in the same manner and at the same time as property taxes are apportioned and distributed.

~~(d)~~ **(f)** In the event that sufficient funds are not available in the commercial vehicle excise tax fund for the distributions required by subsection (a) and subsection (b)(1), the auditor of state shall transfer funds from the commercial vehicle excise tax reserve fund.

~~(e)~~ **(g)** The auditor of state shall, not later than July 1 of each year, furnish to each county auditor an estimate of the amounts to be distributed to the counties under this section during the next calendar year. Before August 1, each county auditor shall furnish to the proper officer of each taxing unit of the county an estimate of the amounts to be distributed to the taxing units under this section during the next calendar year and the budget of each taxing unit shall show the estimated amounts to be received for each fund for which a property tax is proposed to be levied.

SECTION 355. IC 6-6-6.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 21. (a) The department shall allocate each aircraft excise tax payment collected by it to the county in which the aircraft is usually located when not in operation or to the aircraft owner's county of residence if based out of state. The department shall distribute to each county treasurer on a quarterly basis the aircraft excise taxes which were collected by the department during the preceding three (3) months and which the department has allocated to that county. The distribution shall be made on or before the fifteenth of the month following each quarter and the first distribution each year shall be made in April.

(b) Concurrently with making a distribution of aircraft excise taxes, the department shall send an aircraft excise tax report to the county treasurer and the county auditor. The department shall prepare the report on the form prescribed by the state board of accounts. The aircraft excise tax report must include aircraft identification, owner information, and excise tax payment, and must indicate the county where the aircraft is normally kept when not in operation. The department shall, in the manner prescribed by the state board of accounts, maintain records concerning the aircraft excise taxes received and distributed by it.

(c) Except as provided in section 21.5 of this chapter, each county treasurer shall deposit money received by him under this chapter in a

separate fund to be known as the "aircraft excise tax fund". The money in the aircraft excise tax fund shall be distributed to the taxing units of the county in the manner prescribed in subsection (d).

(d) **As used in this subsection, "taxing district" has the meaning set forth in IC 6-1.1-1-20, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, and "tuition support levy" refers to a school corporation's tuition support property tax levy under IC 20-45-3-11 (repealed) for the school corporation's general fund.** In order to distribute the money in the county aircraft excise tax fund to the taxing units of the county, the county auditor shall first allocate the money in the fund among the taxing districts of the county. In making these allocations, the county auditor shall allocate to a taxing district the excise taxes collected with respect to aircraft usually located in the taxing district when not in operation. **Subject to this subsection,** the money allocated to a taxing district shall be apportioned and distributed among the taxing units of that taxing district in the same manner and at the same time that the property taxes are apportioned and distributed. **For purposes of determining the distribution for a year under this section for a taxing unit, a state welfare and tuition support allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare and tuition support allocation to the treasurer of state for deposit as directed by the budget agency. The amount of the state welfare and tuition support allocation for a county for a particular year is equal to the result determined under STEP THREE of the following formula:**

STEP ONE: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tax rate imposed in the taxing district for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP TWO: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tuition support levy tax rate imposed in the taxing district plus the tax rate imposed by the school corporation for the school corporation's special education preschool fund in the district; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP THREE: Determine the sum of the STEP ONE and STEP TWO amounts for the county.

If the boundaries of a taxing district change after the years for which a ratio is calculated under STEP ONE or STEP TWO, the budget agency shall establish a ratio for the new taxing district that reflects the tax rates imposed in the predecessor taxing districts.

(e) Within thirty (30) days following the receipt of excise taxes from the department, the county treasurer shall file a report with the county auditor concerning the aircraft excise taxes collected by the county treasurer. The county treasurer shall file the report on the form prescribed by the state board of accounts. The county treasurer shall, in the manner

and at the times prescribed in IC 6-1.1-27, make a settlement with the county auditor for the aircraft excise taxes collected by the county treasurer. The county treasurer shall, in the manner prescribed by the state board of accounts, maintain records concerning the aircraft excise taxes received and distributed by him.

SECTION 356. IC 6-6-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 9. A boat is exempt from the boat excise tax imposed for a year if the boat is:

(1) owned by the United States;

(2) owned by the state or one (1) of its political subdivisions (as defined in IC 36-1-2-13);

(3) owned by an organization exempt from federal income taxation under 501(c)(3) of the Internal Revenue Code;

(4) a human powered vessel, as determined by the department of natural resources;

(5) held by a boat manufacturer, distributor, or dealer for sale in the ordinary course of business; ~~and subject to assessment under IC 6-1.1;~~

(6) used by a person for the production of income and subject to assessment under IC 6-1.1;

(7) stored in Indiana for less than twenty-two (22) consecutive days and not operated, used, or docked in Indiana;

(8) registered outside Indiana and operated, used, or docked in Indiana for a combined total of less than twenty-two (22) consecutive days during the boating year; or

(9) subject to the commercial vessel tonnage tax under IC 6-6-6.

SECTION 357. IC 6-6-11-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 31. (a) A boat excise tax fund is established in each county. Each county treasurer shall deposit in the fund the taxes received under this chapter.

(b) **As used in this subsection, "taxing district" has the meaning set forth in IC 6-1.1-1-20, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, and "tuition support levy" refers to a school corporation's tuition support property tax levy under IC 20-45-3-11 (repealed) for the school corporation's general fund.** The excise tax money in the county boat excise tax fund shall be distributed to the taxing units of the county. The county auditor shall allocate the money in the fund among the taxing ~~units~~ **districts** of the county based on the tax situs of each boat. **Subject to this subsection,** the money allocated to the taxing units shall be apportioned and distributed among the funds of the taxing

units in the same manner and at the same time that property taxes are apportioned and distributed. **For purposes of determining the distribution for a year under this section for a taxing unit, a state welfare and tuition support allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare and tuition support allocation to the treasurer of state for deposit as directed by the budget agency. The amount of the state welfare and tuition support allocation for a county for a particular year is equal to the result determined under STEP THREE of the following formula:**

STEP ONE: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tax rate imposed in the taxing district for the county's county medical assistance to wards fund, family and children's fund, children's psychiatric residential treatment services fund, county hospital care for the indigent fund, children with special health care needs county fund, plus, in the case of Marion County, the tax rate imposed by the health and hospital corporation that was necessary to raise thirty-five million dollars ($35,000,000) from all taxing districts in the county; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP TWO: Determine the result of the following:

(A) Separately for 2006, 2007, and 2008 for each taxing district in the county, determine the result of:

(i) the tuition support levy tax rate imposed in the taxing district plus the tax rate imposed by the school corporation

for the school corporation's special education preschool fund in the district; divided by

(ii) the aggregate tax rate imposed in the taxing district for the same year.

(B) Determine the sum of the clause (A) amounts.

(C) Divide the clause (B) amount by three (3).

(D) Determine the result of:

(i) the amount of excise taxes allocated to the taxing district that would otherwise be available for distribution to taxing units in the taxing district; multiplied by

(ii) the clause (C) amount.

(E) Determine the sum of the clause (D) amounts for all taxing districts in the county.

STEP THREE: Determine the sum of the STEP ONE and STEP TWO amounts for the county.

If the boundaries of a taxing district change after the years for which a ratio is calculated under STEP ONE or STEP TWO, the budget agency shall establish a ratio for the new taxing district that reflects the tax rates imposed in the predecessor taxing districts.

SECTION 358. IC 6-8.1-1-1, AS AMENDED BY P.L.233-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); ~~the municipal option income tax (IC 6-3.5-8);~~ the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance

tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 359. IC 6-8.1-7-1, AS AMENDED BY P.L.219-2007, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to

any director of a ~~county~~ **local** office of ~~family and children~~ **the division of family resources** located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

SECTION 360. IC 7.1-5-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. A permittee who holds a permit to sell at retail shall not cash a check issued by the ~~county~~ **local** office of ~~family and children~~ **the division of family resources** or by a charitable organization if any part of the proceeds of the check are to be used to purchase an alcoholic beverage.

SECTION 361. IC 8-6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Whenever the separation of grades at the intersection of a railroad or railroads (as defined in IC 8-3-1-2) and a public street or highway is constructed, the railroad or railroads shall pay five (5) percent of the cost of the grade separation as provided in this chapter.

(b) This chapter shall apply to an existing crossing, a new crossing, or the reconstruction of an existing grade separation.

(c) If more than one (1) railroad (as defined in IC 8-3-1-2) is involved in a separation, the railroads involved shall divide the amount to be paid by the railroads by agreement between the railroads. If the railroads fail to agree, the circuit court of the county in which the crossing is located shall have jurisdiction, upon the application of a party, to determine the division of the amount to be paid by the railroads. The decision of the court is final, unless one (1) or more parties deeming themselves aggrieved by the decision of the court shall appeal therefrom to the court of appeals of Indiana within thirty (30) days, or within additional time not exceeding ninety (90) days, as may be granted by the circuit court. The appeal shall be taken in substantially the same manner as an appeal in a civil case from the circuit court.

(d) If a grade separation shall involve a state highway that is a part of the state highway system of Indiana, or a street or highway selected by the Indiana department of transportation as a route of a highway in the state highway system, the state, out of the funds of the Indiana department of transportation or funds appropriated for the use of the Indiana department of transportation, shall pay ninety-five percent (95%) of the cost of the grade separation.

(e) Before the Indiana department of transportation shall proceed with a grade separation within a city or town, the Indiana department of transportation shall first obtain the consent of the city, by a resolution adopted by the board or officials of the city having jurisdiction over improvement of the streets of the city, and any material modification of the plans upon which the consent was granted shall first be approved by the city by a similar resolution.

(f) If such grade separation is on a highway or street not a part of the highways under the jurisdiction of the Indiana department of transportation, or a part of a route selected by it, but is within any city or town of the state, the city or town shall pay one-half (1/2) of ninety-five percent (95%) of the total of such cost and the county in which the crossing is located shall be liable for and pay one-half (1/2) of the

ninety-five percent (95%).

(g) If a grade separation that involves a state highway that is a part of the state highway system of Indiana, or a street or highway selected by the Indiana department of transportation as a route of a highway in the state highway system, necessitates the grade separation on other highways or streets, not a part of the highways under the jurisdiction of the Indiana department of transportation but within any city of the state of Indiana, then of the total cost of the grade separation on a highway or street not under the jurisdiction of the Indiana department of transportation but necessitated by the grade separation involving a highway or street which is a part of the state highway system, the city shall pay one-fourth (1/4) of ninety-five percent (95%) and the county in which the crossing is located shall be liable for and pay one-fourth (1/4) of the ninety-five percent (95%) of the total of the costs and the state out of the funds of the Indiana department of transportation or funds appropriated for the use of the Indiana department of transportation, shall be liable for and pay one-half (1/2) of the remaining portion.

(h) If a crossing is not within any city or town and does not involve a highway under the jurisdiction of the Indiana department of transportation, then the county in which the crossing is located shall pay the ninety-five percent (95%) of the total cost which is not paid by the railroad or railroads.

(i) The division of the cost of grade separation applies when the grade separation replaces and eliminates an existing grade crossing at which active warning devices are in place or ordered to be installed by a state regulatory agency, but when the grade separation does not replace nor eliminate an existing grade crossing the state, county or municipality, as the case may be, shall bear and pay one hundred percent (100%) of the cost of the grade separation.

(j) In estimating and computing the cost of the grade separation, there shall be considered as a part of costs all expenses reasonably necessary for preliminary engineering, rights-of-way and all work required to comply with the plans and specifications for the work, including all changes in the highway and the grade thereof and the approaches to the grade separation, as well as all changes in the roadbed, grade, rails, ties, bridges, buildings, and other structural changes in a railroad as may be necessary to effect the grade separation and to restore the railroad facilities aforesaid to substantially the same condition as before the separation.

(k) The required railroad share of the cost shall be based on the costs for preliminary engineering, right-of-way, and construction within the

limits described below:

(1) Where a grade crossing is eliminated by grade separation, the structure and approaches for the number of lanes on the existing highway and in accordance with the current design standards of the governmental entity having jurisdiction over the highway involved.

(2) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a grade separation project, the estimated cost of a theoretical structure and approaches as described under subdivision (1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.

(3) Where a grade crossing is eliminated by railroad or highway relocation, the actual cost of the relocation project, or the estimated cost of a structure and approaches as described under subdivision (1), whichever is less.

(l) If the Indiana department of transportation or any city, town, or county is unable to reach an agreement with a railroad company after determining that construction or reconstruction of a grade separation, which replaces or eliminates the need for a grade crossing, is necessary to protect travelers on the roads and streets of the state, the appropriate unit or combination of units of government shall give a written notice of its intention to proceed with the construction or reconstruction of a grade separation to the superintendent or regional engineer of the railroad company. The notice of intention shall be made by the adoption of a resolution stating the need for the grade separation. If, after thirty (30) days, the railroad has not agreed to a division of inspections, plans and specifications, the number and type of jobs to be completed by each agency, a division of costs, and other necessary conditions, the Indiana department of transportation, city, town, or county may proceed with the grade separation exercising any and all of its powers to construct or reconstruct a bridge and, notwithstanding other provisions of this chapter, may pay for up to one hundred percent (100%) of the cost of the project. If the railroad is unable, for good cause, to pay the share of the cost required by this section, the city, town, or county may certify the amount owed by the railroad to the county auditor who shall prepare a special tax duplicate to be collected and settled for by the county treasurer in the same manner and at the same time as property taxes are collected. ~~except that such tax assessment shall not authorize a payment or credit from the property tax replacement fund created by IC 6-1.1-21.~~ However, before the Indiana department of transportation, city, town, or county undertakes to

do the work themselves they shall notify an agent of the railroad as to the time and place of the work.

SECTION 362. IC 8-14-9-12, AS AMENDED BY P.L.219-2007, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. All bonds and interest on bonds issued under this chapter are exempt from taxation as provided under IC 6-8-5-1. All general laws relating to:

(1) the filing of a petition requesting the issuance of bonds;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds, **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the appropriation of the proceeds of the bonds and the approval of the appropriation by the department of local government finance; and

(4) the sale of bonds at public sale for not less than par value;

are applicable to proceedings under this chapter.

SECTION 363. IC 8-18-21-13, AS AMENDED BY P.L.224-2007, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The annual operating budget of a toll road authority is subject to:

(1) review by the county board of tax adjustment; ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ and ~~then~~

(2) review by the department of local government finance;

as in the case of other political subdivisions.

SECTION 364. IC 8-22-3-16, AS AMENDED BY P.L.219-2007, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The board may issue general obligation bonds of the authority for the purpose of procuring funds to pay the cost of acquiring real property, or constructing, enlarging, improving, remodeling, repairing, or equipping buildings, structures, runways, or other facilities, for use as or in connection with or for administrative purposes of the airport. The issuance of the bonds must be authorized by ordinance of the board providing for the amount, terms, and tenor of the bonds and for the time and character of notice and the mode of making sale. If one (1) airport is owned by the authority, an ordinance authorizing the issuance of bonds for a separate second airport is subject to approval as provided in

this section. The bonds bear interest and are payable at the times and places that the board determines but running not more than twenty-five (25) years after the date of their issuance, and they must be executed in the name of the authority by the president of the board and attested by the secretary who shall affix to each of the bonds the official seal of the authority. The interest coupons attached to the bonds may be executed by placing on them the facsimile signature of the president of the board.

(b) The issuance of general obligation bonds must be approved by resolution of the following body:

(1) When the authority is established by an eligible entity, by its fiscal body.

(2) When the authority is established by two (2) or more eligible entities acting jointly, by the fiscal body of each of those entities.

(3) When the authority was established under IC 19-6-2 **(before its repeal),** by the mayor of the consolidated city, and if a second airport is to be funded, also by the city-county council.

(4) When the authority was established under IC 19-6-3 **(before its repeal),** by the county council.

(c) The airport director shall manage and supervise the preparation, advertisement, and sale of the bonds, subject to the authorizing ordinance. Before the sale of the bonds, the airport director shall cause notice of the sale to be published once each week for two (2) consecutive weeks in two (2) newspapers of general circulation published in the district, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest bidder, in accordance with the procedures for selling public bonds. After the bonds have been properly sold and executed, the airport director shall deliver them to the treasurer of the authority and take a receipt for them, and shall certify to the treasurer the amount which the purchaser is to pay for them, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and airport director or superintendent shall report their actions to the board.

(d) The provisions of IC 6-1.1-20 and IC 5-1 relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice of them;

(2) the giving of notice of determination to issue bonds;

(3) the giving of notice of hearing on the appropriation of the proceeds of bonds and the right of taxpayers to appeal and be heard

on the proposed appropriation;

(4) the approval of the appropriation by the department of local government finance;

(5) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds, **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a); and

(6) the sale of bonds at public sale for not less than par value;

are applicable to proceedings under this chapter for the issuance of general obligation bonds.

(e) Bonds issued under this chapter are not a corporate obligation or indebtedness of any eligible entity but are an indebtedness of the authority as a municipal corporation. An action to question the validity of the bonds issued or to prevent their issue must be instituted not later than the date set for sale of the bonds, and all of the bonds after that date are incontestable.

SECTION 365. IC 8-22-3.5-9, AS AMENDED BY P.L.97-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) As used in this section, "base assessed value" means:

(1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 or 9.5 of this chapter, notwithstanding the date of the final action taken under section 6 of this chapter; plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) A resolution adopted under section 5 of this chapter and confirmed under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

(c) The allocation provision must:

(1) apply to the entire airport development zone; and

(2) require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).

(d) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(1) the assessed value of the tangible property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

(e) All of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development zone and, when collected, paid into special funds as follows:

(1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.

(2) The commission may determine that a portion of tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds or a loan contract of the airport authority for a qualified airport development project, to the payment of leases for a qualified airport development project, or to the payment of principal and interest on bonds issued by an eligible entity to pay for qualified airport development projects in the airport development zone or serving the airport development zone.

(3) The commission may determine that a part of the tax proceeds shall be allocated to a project fund and used to pay expenses incurred by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(4) Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1), (2), and (3) shall be allocated to a project fund and dedicated to the reimbursement of expenditures made by the commission for a qualified airport development project that is in the airport development zone or is

serving the airport development zone.

(f) ~~If the~~ **Before July 15 of each year, the commission shall do the following:**

(1) Determine the amount, if any, by which tax proceeds allocated to the project fund in subsection (e)(3) **in the following year will** exceed the amount necessary to satisfy amounts required under subsection (e). ~~the excess in the project fund over that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).~~

(2) Provide a written notice to the county auditor and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess tax proceeds that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (d); or

(B) state that the commission has determined that there are no excess tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subsection (d).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess tax proceeds determined by the commission.

(g) When money in the debt service fund and in the project fund is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the airport authority for the financing of qualified airport development projects, all lease rentals payable on leases of qualified airport development projects, and all costs and expenditures associated with all qualified airport development projects, money in the debt service fund and in the project fund in excess of those amounts shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(h) Property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection (e)(2).

(i) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.

(j) Notwithstanding any other law, the assessed value of all taxable tangible property in the airport development zone, for purposes of tax

limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the tangible property as valued without regard to this section; or

(2) the base assessed value.

SECTION 366. IC 8-22-3.5-14, AS AMENDED BY P.L.124-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 14. (a) This section applies only to an airport development zone that is in a:

(1) city described in section 1(2) of this chapter; or

(2) county described in section 1(3), 1(4), or 1(6) of this chapter.

(b) Notwithstanding any other law, a business or an employee of a business that is located in an airport development zone is entitled to the benefits provided by the following statutes, as if the business were located in an enterprise zone:

~~(1) IC 6-1.1-20.8.~~

~~(2)~~ **(1)** IC 6-3-2-8.

~~(3)~~ **(2)** IC 6-3-3-10.

~~(4)~~ **(3)** IC 6-3.1-7.

~~(5)~~ **(4)** IC 6-3.1-9.

~~(6)~~ **(5)** IC 6-3.1-10-6.

(c) Before June 1 of each year, a business described in subsection (b) must pay a fee equal to the amount of the fee that is required for enterprise zone businesses under IC 5-28-15-5(a)(4)(A). However, notwithstanding IC 5-28-15-5(a)(4)(A), the fee shall be paid into the debt service fund established under section 9(e)(2) of this chapter. If the commission determines that a business has failed to pay the fee required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(d) A business that receives any of the benefits described in subsection (b) must use all of those benefits, except for the amount of the fee required by subsection (c), for its property or employees in the airport development zone and to assist the commission. If the commission determines that a business has failed to use its benefits in the manner required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(e) If the commission determines that a business has failed to pay the fee required by subsection (c) or has failed to use benefits in the manner required by subsection (d), the commission shall provide written notice of

the determination to the department of state revenue, the department of local government finance, and the county auditor.

SECTION 367. IC 8-22-3.6-3, AS AMENDED BY P.L.224-2007, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An authority that is located in a:

(1) city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

(2) county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); or

(3) county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

may enter into a lease of an airport project with a lessor for a term not to exceed fifty (50) years and the lease may provide for payments to be made by the airport authority from property taxes levied under IC 8-22-3-17, taxes allocated under IC 8-22-3.5-9, any other revenues available to the airport authority, or any combination of these sources.

(b) A lease may provide that payments by the authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the authority or the eligible entity for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the authority only after a public hearing by the board at which all interested parties are provided the opportunity to be heard. After the public hearing, the board may adopt an ordinance authorizing the execution of the lease if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the authority and is in the best interest of the residents of the authority district.

(d) Upon execution of a lease providing for payments by the authority in whole or in part from the levy of property taxes under IC 8-22-3-17, the board shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the authority district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the

facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be.

(e) Upon the filing of a petition under subsection (d), the county auditor shall immediately certify a copy of the petition, together with any other data necessary to present the questions involved, to the department of local government finance. ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008).~~ Upon receipt of the certified petition and information, the department of local government finance o~~r the county board of tax and capital projects review~~ shall fix a time and place for a hearing in the authority district, which must be not less than five (5) or more than thirty (30) days after the time is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the board, and to the first fifty (50) petitioners on the petition, by a letter signed by ~~one (1) member of the state board of tax commissioners or the county board of tax and capital projects review~~ **the commissioner of the department of local government finance** and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance or ~~the county board of tax and capital projects review~~ on the appeal, upon the necessity for the execution of the lease, and as to whether the payments under it are fair and reasonable, is final.

(f) An authority entering into a lease payable from any sources permitted under this chapter may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; or

(2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the airport authority to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(h) Except as provided in this section, no approvals of any governmental body or agency are required before the authority enters into a lease under this section.

(i) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the later of:

(1) the public hearing described in subsection (c); or

(2) the publication of the notice of the execution and approval of the

lease described in subsection (d), if the lease is payable in whole or in part from tax levies.

However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, ~~or the county board of tax and capital projects review,~~ an action to contest the validity or enjoin the performance must be brought within thirty (30) days after the decision of the department of local government finance. ~~or the county board of tax and capital projects review.~~

(j) If an authority exercises an option to buy an airport project from a lessor, the authority may subsequently sell the airport project, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the authority through auction, appraisal, or arms length negotiation. If the airport project is sold at auction, after appraisal, or through negotiation, the board shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

SECTION 368. IC 10-13-3-27, AS AMENDED BY P.L.216-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and has provided criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court

as the out-of-home placement for a child at the time the child will reside in the location;

(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

(11) is being investigated for welfare fraud by an investigator of the division of family resources or a ~~county~~ **local** office of ~~family and children,~~ **the division of family resources;**

(12) is being sought by the parent locator service of the child support bureau of the department of child services;

(13) is or was required to register as a sex or violent offender under IC 11-8-8; or

(14) has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 369. IC 11-10-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The earnings of an offender employed under this chapter shall be surrendered to the department. This amount shall be distributed in the following order:

(1) Not less than twenty percent (20%) of the offender's gross earnings to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest if interest on the amount is earned, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(2) State and federal income taxes and Social Security deductions.

(3) The expenses of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(4) The support of the offender's dependents, when directed by the offender or ordered by the court to pay this support. If the offender's dependents are receiving welfare assistance, the appropriate ~~county~~ **local** office of ~~family and children~~ **the division of family resources** or welfare department in another state shall be notified of these disbursements.

(5) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(b) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(1).

(c) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

SECTION 370. IC 11-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The earnings of an offender employed in a work release program under this chapter, less payroll deductions required by law and court ordered deductions for

satisfaction of a judgment against the offender, shall be surrendered to the department or its designated representative. The remaining earnings shall be distributed in the following order:

(1) State and federal income taxes and Social Security deductions not otherwise withheld.

(2) The cost of membership in an employee organization.

(3) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(4) Not less than fifteen percent (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(5) The expense of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(6) Transportation cost to and from work, and other work related incidental expenses.

(7) Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid through other means.

(b) After the amounts prescribed in subsection (a) are deducted, the department may, out of the remaining amount:

(1) when directed by the offender or ordered by the court, pay for the support of the offender's dependents (if the offender's dependents are receiving welfare assistance, the appropriate ~~county~~ **local** office of ~~family and children~~ **the division of family resources** or welfare department in another state shall be notified of these disbursements); and

(2) with the consent of the offender, pay to the offender's victims or others any unpaid obligations of the offender.

(c) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(4).

(d) The department may, when special circumstances warrant or for

just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

SECTION 371. IC 11-12-2-2, AS AMENDED BY P.L.34-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) To qualify for financial aid under this chapter, a county must establish a community corrections advisory board by resolution of the county executive or, in a county having a consolidated city, by the city-county council. A community corrections advisory board consists of:

(1) the county sheriff or the sheriff's designee;

(2) the prosecuting attorney or the prosecuting attorney's designee;

(3) the director of the ~~county~~ **local** office of ~~family and children~~ **the division of family resources** or the director's designee;

(4) the executive of the most populous municipality in the county or the executive's designee;

(5) two (2) judges having criminal jurisdiction, if available, appointed by the circuit court judge or the judges' designees;

(6) one (1) judge having juvenile jurisdiction, appointed by the circuit court judge;

(7) one (1) public defender or the public defender's designee, if available, or one (1) attorney with a substantial criminal defense practice appointed by the county executive or, in a county having a consolidated city, by the city-county council;

(8) one (1) victim, or victim advocate if available, appointed by the county executive or, in a county having a consolidated city, by the city-county council;

(9) one (1) ex-offender, if available, appointed by the county executive or, in a county having a consolidated city, by the city-county council; and

(10) the following members appointed by the county executive or, in a county having a consolidated city, by the city-county council:

(A) One (1) member of the county fiscal body or the member's designee.

(B) One (1) probation officer.

(C) One (1) educational administrator.

(D) One (1) representative of a private correctional agency, if such an agency exists in the county.

(E) One (1) mental health administrator, or, if there is none

available in the county, one (1) psychiatrist, psychologist, or physician.

(F) Four (4) lay persons, at least one (1) of whom must be a member of a minority race if a racial minority resides in the county and a member of that minority is willing to serve.

(b) Designees of officials designated under subsection (a)(1) through (a)(7) and (a)(10)(A) serve at the pleasure of the designating official.

(c) Members of the advisory board appointed by the county executive or, in a county having a consolidated city, by the city-county council, shall be appointed for a term of four (4) years. The criminal defense attorney, the ex-offender, and the victim or victim advocate shall be appointed for a term of four (4) years. Other members serve only while holding the office or position held at the time of appointment. The circuit court judge may fill the position of the judge having juvenile court jurisdiction by self appointment if the circuit court judge is otherwise qualified. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the unexpired term. Members may be reappointed.

(d) Two (2) or more counties, by resolution of their county executives or, in a county having a consolidated city, by the city-county council, may combine to apply for financial aid under this chapter. If counties so combine, the counties may establish one (1) community corrections advisory board to serve these counties. This board must contain the representation prescribed in subsection (a), but the members may come from the participating counties as determined by agreement of the county executives or, in a county having a consolidated city, by the city-county council.

(e) The members of the community corrections advisory board shall, within thirty (30) days after the last initial appointment is made, meet and elect one (1) member as chairman and another as vice chairman and appoint a secretary-treasurer who need not be a member. A majority of the members of a community corrections advisory board may provide for a number of members that is:

(1) less than a majority of the members; and

(2) at least six (6);

to constitute a quorum for purposes of transacting business. The affirmative votes of at least five (5) members, but not less than a majority of the members present, are required for the board to take action. A vacancy in the membership does not impair the right of a quorum to transact business.

(f) The county executive and county fiscal body shall provide necessary assistance and appropriations to the community corrections advisory board established for that county. Appropriations required under this subsection are limited to amounts received from the following sources:

(1) Department grants.

(2) User fees.

(3) Other funds as contained within an approved plan.

Additional funds may be appropriated as determined by the county executive and county fiscal body.

SECTION 372. IC 11-12-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) **Except as otherwise provided in this section,** a county receiving financial aid under this chapter shall be charged a sum for each person committed to the department of correction and confined in a state correctional facility equal to seventy-five percent (75%) of the average daily cost of confining a person in certain state correctional facilities as calculated by the state board of accounts. The daily cost is determined by dividing the average daily population of the state prison, the Pendleton Correctional Facility, and the Putnamville Correctional Facility into the previous fiscal year's operating expense of those three (3) facilities and reducing the quotient to an average daily cost. However, no charge may be made for those persons:

(1) convicted of:

(A) murder or a Class A or Class B felony;

(B) involuntary manslaughter, reckless homicide, battery, criminal confinement, child molesting, robbery, burglary, or escape as Class C felonies;

(C) any other felony resulting in bodily injury to any other person;

(D) any other felony committed by means of a deadly weapon;

(E) any felony for which an habitual offender sentence was imposed;

(F) any offense for which the sentence is nonsuspendible under IC 35-50-2-2(a); or

(G) dealing in marijuana as a Class D felony under IC 35-48-4-10(b)(1)(B) or a Class C felony under IC 35-48-4-10(b)(2);

(2) transferred to the department of correction after they have violated the terms of their community corrections sentence; ~~or~~

(3) who were charged with:

(A) a felony resulting in serious bodily injury; or

(B) a felony committed by means of a deadly weapon;

and the sentencing court noted on the commitment order that such charges were dismissed pursuant to a plea agreement under IC 35-35-3; **or**

(4) who are committed to the department as a delinquent offender (other than a delinquent offender whose commitment is prohibited under IC 31-37-19-7).

However, amounts owed to the state for commitments of delinquent offenders for periods before January 1, 2009, must be paid by the county.

(b) The amount charged a county under this section may not exceed the amount of financial aid received under this chapter. The amount charged shall be deducted from the subsidy payable to the participating county. All charges are a charge upon the county of original jurisdiction.

~~(c) Notwithstanding subsection (a), if a county receives financial aid under this chapter for a program or a facility for persons convicted of crimes but has not received financial aid under this chapter for a program or a facility for delinquent offenders, the costs of keeping delinquent offenders in state programs or facilities operated by the department of correction shall be paid under IC 11-10-2-3.~~

~~(d) Notwithstanding subsection (a), if a county receives financial aid under this chapter for a program or a facility for delinquent offenders but has not received financial aid under this chapter for a program or a facility for persons convicted of crimes, the costs of keeping persons convicted of crimes in state programs or facilities operated by the department of correction shall be paid by the department of correction.~~

~~(e) Notwithstanding subsection (a),~~ **(c)** No charge may be made for:

(1) the initial twelve (12) months of the county's participation in the subsidy program;

(2) each month during which:

(A) the county maintains a residential facility or a portion of a residential facility as part of its community corrections plan; and

(B) the residential facility or the community corrections portion of the residential facility operates at the rated bed capacity specified in the county's community corrections plan; or

(3) each month during which a county that has no residential facility as part of its community corrections plan operates a community corrections program at the offender-supervisor ratio specified by the plan.

~~(f)~~ **(d)** A county fulfills the rated bed capacity requirement of

subsection ~~(c)(2)~~ **(c)(2)** if the following conditions are met:

(1) Each bed used in the calculation of rated bed capacity must be filled each day of the month unless a vacancy occurs because of the release, escape, or incarceration of the bed's occupant.

(2) A vacancy that occurs because of the release, escape, or incarceration of the occupant of a bed used in the calculation of rated bed capacity must be filled within two (2) days after its occurrence.

~~(g)~~ **(e)** A county fulfills the offender-supervisor ratio requirement of subsection ~~(c)(3)~~ **(c)(3)** if the following conditions are met:

(1) Each opening used in the calculation of the offender-supervisor ratio specified in the community corrections plan must be filled each day of the month unless a vacancy occurs because of the release, escape, or incarceration of an offender.

(2) A vacancy that occurs because of the release, escape, or incarceration of an offender must be filled within two (2) working days after its occurrence.

SECTION 373. IC 11-12-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any earnings of a person employed under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against that person, shall be collected by the county sheriff, probation department, ~~county~~ **local** office of ~~family and children,~~ **the division of family resources,** or other agency designated by the sentencing or committing court. Unless otherwise ordered by the court, the remaining earnings shall be distributed in the following order:

(1) To pay state and federal income taxes and Social Security deductions not otherwise withheld.

(2) To pay the cost of membership in an employee organization.

(3) Not less than fifteen percent (15%) of the person's gross earnings, if that amount of the gross is available after the above deductions, to be given to that person or retained for the person, with accrued interest, until the person's release or discharge.

(4) To pay for the person's room and board provided by the county.

(5) To pay transportation costs to and from work, and other work related incidental expenses.

(6) To pay court ordered costs, fines, or restitution.

(b) After the amounts prescribed in subsection (a) are deducted, the remaining amount may be used to:

(1) when directed by the person or ordered by the court, pay for the support of the person's dependents (if the person's dependents are

receiving welfare assistance, the appropriate **local** office of ~~family and children~~ **the division of family resources** or welfare department in another state shall be notified of such disbursements); and

(2) with the consent of the person, pay to the person's victims or others any unpaid obligations of that person.

(c) Any remaining amount shall be given to the person or retained for the person according to subsection (a)(3).

(d) The collection of room and board under subsection (a)(4) may be waived.

SECTION 374. IC 11-13-6-5.5, AS AMENDED BY P.L.173-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) This section shall not be construed to limit victims' rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in IC 11-8-8-5.

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

(1) discharge from the department of correction;

(2) release from the department of correction under any temporary release program administered by the department;

(3) release on parole;

(4) parole release hearing under this chapter;

(5) parole violation hearing under this chapter; or

(6) escape from commitment to the department of correction.

(e) The department shall make the notification required under subsection (d):

(1) at least forty (40) days before a discharge, release, or hearing occurs; and

(2) not later than twenty-four (24) hours after the escape of a delinquent offender from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number

of the victim.

(f) The probation officer ~~or caseworker~~ preparing the predispositional report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department ~~or county office of family and children~~ shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department ~~or county office of family and children~~ shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the delinquent offender.

(2) The date of the delinquent act.

(3) The date of the adjudication as a delinquent offender.

(4) The delinquent act of which the delinquent offender was adjudicated.

(5) The disposition imposed.

(6) The amount of time for which the delinquent offender was committed to the department.

(7) The date and location of the interview (if applicable).

SECTION 375. IC 12-7-2-32, AS AMENDED BY P.L.145-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 32. "Child welfare services", for purposes of the following statutes, ~~means the services for children prescribed in IC 31-26-3-1.~~ **has the meaning set forth in IC 31-9-2-19.5:**

(1) IC 12-13.

(2) IC 12-14.

(3) IC 12-15.

~~(4) IC 12-19.~~

SECTION 376. IC 12-7-2-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45. "County office" refers to a ~~county~~ **local** office of **the division of** family ~~and children.~~ **resources.**

SECTION 377. IC 12-7-2-46, AS AMENDED BY P.L.145-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46. "County director" refers to a director of a ~~county~~ **local** office ~~or a director of a district office~~ of the division of family resources. ~~or the department of child services.~~

SECTION 378. IC 12-7-2-57.5, AS AMENDED BY P.L.234-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 57.5. ~~(a)~~ "Department", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

~~(b) "Department", for purposes of IC 12-19, refers to the department of child services.~~

~~(c) "Department", for purposes of IC 12-20, refers to the department of local government finance established by IC 6-1.1-30-1.1.~~

SECTION 379. IC 12-7-2-64, AS AMENDED BY P.L.1-2007, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-10-15, the term refers to the director of the division of aging.

~~(4) For purposes of IC 12-19-5, the term refers to the director of the department of child services established by IC 31-25-1-1.~~

~~(5)~~ **(4)** For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.

~~(6)~~ **(5)** For purposes of IC 12-26, the term:

(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and

(B) includes the director's designee.

~~(7)~~ **(6)** If subdivisions (1) through ~~(6)~~ **(5)** do not apply, the term refers to the director of any of the divisions.

SECTION 380. IC 12-7-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.

~~(2) For purposes of IC 12-13-8, the meaning set forth in IC 12-13-8-1.~~

~~(3)~~ **(2)** For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.

~~(4)~~ **(3)** For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.

~~(5)~~ **(4)** For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.

~~(6)~~ **(5)** For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.

~~(7)~~ **(6)** For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.

~~(8) For purposes of IC 12-19-7, the meaning set forth in IC 12-19-7-2.~~

~~(9)~~ **(7)** For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.

~~(10)~~ **(8)** For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.

~~(11)~~ **(9)** For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.

~~(12)~~ **(10)** For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.

~~(13)~~ **(11)** For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

SECTION 381. IC 12-7-2-124.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 124.6. "Local director" refers to a director of a local office of the division of family resources.**

SECTION 382. IC 12-7-2-124.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 124.8. "Local office" refers to a county or district office of the division of family resources.**

SECTION 383. IC 12-8-10-1, AS AMENDED BY P.L.1-2007, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies only to the indicated money of the following state agencies to the extent that the money is used by the agency to obtain services from grantee agencies to carry out the

program functions of the agency:

(1) Money appropriated or allocated to a state agency from money received by the state under the federal Social Services Block Grant Act (42 U.S.C. 1397 et seq.).

(2) The division of aging, except this chapter does not apply to money expended under the following:

(A) The following statutes, unless application of this chapter is required by another subdivision of this section:

(i) IC 12-10-6.

(ii) IC 12-10-12.

(B) Epilepsy services.

(3) The division of family resources, for money expended under the following programs:

(A) The child development associate scholarship program.

(B) The dependent care program.

(C) Migrant day care.

~~(D) The youth services bureau.~~

~~(E) The project safe program.~~

~~(F)~~ **(D)** The commodities program.

~~(G)~~ **(E)** The migrant nutrition program.

~~(H)~~ **(F)** Any emergency shelter program.

~~(I)~~ **(G)** The energy weatherization program.

~~(J)~~ **(H)** Programs for individuals with developmental disabilities.

(4) The state department of health, for money expended under the following statutes:

(A) IC 16-19-10.

(B) IC 16-38-3.

(5) The group.

(6) All state agencies, for any other money expended for the purchase of services if all the following apply:

(A) The purchases are made under a contract between the state agency and the office of the secretary.

(B) The contract includes a requirement that the office of the secretary perform the duties and exercise the powers described in this chapter.

(C) The contract is approved by the budget agency.

(7) The division of mental health and addiction.

SECTION 384. IC 12-13-5-5, AS AMENDED BY P.L.234-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) Each county auditor shall keep records

and make reports relating to the county welfare fund (before July 1, 2001), the family and children's fund **(before January 1, 2009),** and other financial transactions as required under IC 12-13 through IC 12-19 and as required by the division or the department of child services.

(b) All records provided for in IC 12-13 through IC 12-19 shall be kept, prepared, and submitted in the form required by the division or the department of child services and the state board of accounts.

SECTION 385. IC 12-14-25-9, AS AMENDED BY P.L.145-2006, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. ~~(a)~~ The codirectors of the election division shall notify the division of family resources ~~and the department of child services~~ of the following:

(1) The scheduled date of each primary, general, municipal, and special election.

(2) The jurisdiction in which the election will be held.

SECTION 386. IC 12-15-1.5-8, AS AMENDED BY P.L.145-2006, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The codirectors of the election division shall provide the division of family resources ~~and the department of child services~~ with a list of the current addresses and telephone numbers of the offices of the circuit court clerk or board of registration in each county. The division of family resources ~~and the department of child services~~ shall promptly forward the list and each revision of the list to each ~~county~~ **local** office.

(b) The codirectors shall provide the division of family resources ~~and the department of child services~~ with pre-addressed packets for county offices to transmit applications under section 6(1) or 6(2) of this chapter.

SECTION 387. IC 12-15-2-16, AS AMENDED BY P.L.145-2006, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. An individual:

(1) who is less than eighteen (18) years of age;

(2) who is described in 42 U.S.C. 1396a(a)(10)(A)(ii); and

(3) who is:

(A) a child in need of services (as defined in IC 31-34-1);

(B) a child placed in the custody of the department of child services ~~or a county office~~ under IC 31-35-6-1 (or IC 31-6-5-5 before its repeal); or

(C) a child placed under the supervision or in the custody of the department of child services ~~or a county office~~ by an order of the court;

is eligible to receive Medicaid.

SECTION 388. IC 12-16-7.5-4.5, AS AMENDED BY P.L.218-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.5. (a) Not later than October 31 following the end of each state fiscal year, the division shall:

(1) calculate for each county the total amount of payable claims submitted to the division during the state fiscal year attributed to:

(A) patients who were residents of the county; and

(B) patients:

(i) who were not residents of Indiana;

(ii) whose state of residence could not be determined by the division; and

(iii) who were residents of Indiana but whose county of residence in Indiana could not be determined by the division;

and whose medical condition that necessitated the care or service occurred in the county;

(2) notify each county of the amount of payable claims attributed to the county under the calculation made under subdivision (1); and

(3) with respect to payable claims attributed to a county under subdivision (1):

(A) calculate the total amount of payable claims submitted during the state fiscal year for:

(i) each hospital;

(ii) each physician; and

(iii) each transportation provider; and

(B) determine the amount of each payable claim for each hospital, physician, and transportation provider listed in clause (A).

(b) For the state fiscal years beginning after June 30, 2005, but before July 1, 2007, and before November 1 following the end of a state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the following state fiscal years:

(1) For the state fiscal year ending June 30, 2006, as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to

the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division to make payments under section 5 of this chapter.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of the payments made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to sixty-one million dollars ($61,000,000) less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

STEP FIVE: Transfer to the Medicaid indigent care trust fund for the programs referenced at IC 12-15-20-2(8)(D)(vi) and funded in accordance with IC 12-15-20-2(8)(H) the amount determined under STEP ONE, less the sum of the amount:

(A) determined in STEP TWO;

(B) transferred in STEP THREE; and

(C) transferred in STEP FOUR.

(2) For the state fiscal year ending June 30, 2007, as required under the following steps:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total

transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division for making payments under section 5 of this chapter or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of five million dollars ($5,000,000) for the payment made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to the amount determined under STEP ONE less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(c) For the state fiscal years beginning after June 30, 2007, before November 1 following the end of the state fiscal year, the division shall allocate the funds transferred ~~from a county's hospital care for the indigent fund~~ to the state hospital care for the indigent fund ~~under IC 12-16-14 during or~~ for the state fiscal year as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred ~~from a county's hospital care for the indigent fund by the county~~ to the state hospital care for the indigent fund ~~under IC 12-16-14 during or~~ for the state fiscal year.

STEP TWO: ~~Of the total amount of payable claims submitted to the division during the state fiscal year attributed to the county under subsection (a),~~ Determine the amount ~~of total physician payable claims, and total transportation provider payable claims. Of the amounts determined for physicians and transportation providers, calculate the sum of those amounts as a percentage of an amount equal to the sum of the total payable physician claims and total payable transportation provider claims attributed to all the counties~~

~~submitted to the division during the state fiscal year.~~ **specified in STEP THREE.**

STEP THREE: ~~Multiply~~ **The amount to be used under STEP TWO is** three million dollars ($3,000,000). ~~by the percentage calculated under STEP TWO.~~

STEP FOUR: Transfer to the Medicaid indigent care trust fund for purposes of IC 12-15-20-2(8)(G) an amount equal to the amount calculated under STEP ONE, minus an amount equal to the amount ~~calculated~~ **specified** under STEP THREE.

STEP FIVE: The division shall retain an amount equal to the amount remaining in the state hospital care for the indigent fund after the transfer in STEP FOUR for purposes of making payments under section 5 of this chapter or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.

(d) The costs of administering the hospital care for the indigent program, including the processing of claims, shall be paid from the funds transferred to the state hospital care for the indigent fund.

SECTION 389. IC 12-16-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. ~~(a)~~ The state hospital care for the indigent fund is established.

~~(b) Before the fifth day of each month, all money contained in a county hospital care for the indigent fund at the end of the preceding month shall be transferred to the state hospital care for the indigent fund.~~

SECTION 390. IC 12-16-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. ~~(a)~~ The state hospital care for the indigent fund ~~consists of~~ **includes** the following:

(1) The money transferred to the state hospital care for the indigent fund from ~~the~~ **a** county. ~~hospital care for the indigent funds.~~

(2) Any contributions to the fund from individuals, corporations, foundations, or others for the purpose of providing hospital care for the indigent.

~~(3) The money advanced to the fund under IC 12-16-15.~~

~~(4)~~ **(3)** The appropriations made ~~specifically~~ to the fund by the general assembly.

~~(b) This section does not obligate the general assembly to appropriate money to the state hospital care for the indigent fund.~~

SECTION 391. IC 12-16-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 17. Health and Hospital Corporation of Marion County

Sec. 1. The office of the secretary of family and social services shall annually transfer forty million dollars ($40,000,000) to a hospital corporation established under IC 16-22-8 from the state general fund for the purposes of the hospital corporation.

Sec. 2. A transfer required in a calendar year under section 1 of this chapter shall be made in four (4) equal installments before April 30, July 31, September 30, and December 31.

Sec. 3. The maximum permissible property tax levy that a hospital corporation established under IC 16-22-8 would otherwise be permitted to impose under IC 6-1.1-18.5-3 shall be reduced by thirty-five million dollars ($35,000,000) in a calendar year in which section 1 of this chapter provides for a transfer.

SECTION 392. IC 12-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~A county office~~ **The division shall establish local offices** of family ~~and children is established~~ **resources** in each county **or district designated by the division.**

SECTION 393. IC 12-19-1-2, AS AMENDED BY P.L.138-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The director of the ~~department of child services~~ **division** shall appoint a ~~county~~ **local** director ~~in~~ **for** each ~~county.~~ **local office.**

~~(b) The director of the department of child services shall appoint each county director:~~

~~(1) solely on the basis of merit; and~~

~~(2) from eligible lists established by the state personnel department.~~

~~(c) Each county~~ **(b) A local** director must be a citizen of the United States.

SECTION 394. IC 12-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~county~~ **local** director is the executive and administrative officer of the ~~county~~ **local** office.

SECTION 395. IC 12-19-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A ~~county~~ **local** director is entitled to receive as compensation for the ~~county~~ **local** director's services an amount determined by the division that is within:

(1) the lawfully established appropriations; and

(2) the salary ranges of the pay plan adopted by the state personnel department and approved by the budget committee.

(b) Compensation paid to a ~~county~~ **local** director shall be paid in the same manner that compensation is paid to other state employees.

SECTION 396. IC 12-19-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) In addition to the compensation paid under this article, a ~~county~~ **local** director may receive for each mile necessarily traveled in the discharge of the ~~county~~ **local** director's duties the same amount per mile that other state employees receive.

(b) A ~~county~~ **local** director is also entitled to a per diem for lodging and meal expenses if the ~~county~~ **local** director's official duties require the ~~county~~ **local** director to travel outside of the county **where the local** director's ~~county.~~ **permanent office is located.** The per diem for a ~~county~~ **local** director's lodging and meals shall be paid at the rate set by law for other state employees.

~~(c) An amount to be paid under this section for traveling expenses or for a per diem for lodging and meals shall be paid only if the amount has been made available by appropriation.~~

SECTION 397. IC 12-19-1-7, AS AMENDED BY P.L.145-2006, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The ~~county~~ **local** director shall appoint from eligible lists established by the state personnel department the number of assistants necessary to

~~(1)~~ administer the welfare activities within the county **or district** that are administered by the division under IC 12-13 through IC 12-19 or by an administrative rule, with the approval of the director of the division. ~~or~~

~~(2) administer the child services (as defined in IC 12-19-7-1) and child welfare activities within the county that are the responsibility of the department under IC 12-13 through IC 12-19 and IC 31-25 through IC 31-40 or by an administrative rule, with the approval of the director of the department.~~

(b) The

~~(1)~~ division, for personnel performing activities described in subsection ~~(a)(1);~~

~~(2) department, for personnel performing activities described in subsection (a)(2); or~~

~~(3) division and the department jointly for personnel performing activities in both subsection (a)(1) and (a)(2);~~

(a), shall determine the compensation of the assistants within the salary

ranges of the pay plan adopted by the state personnel department and approved by the budget agency, with the advice of the budget committee, and within lawfully established appropriations.

SECTION 398. IC 12-19-1-8, AS AMENDED BY P.L.234-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. ~~(a) Except as provided in subsection (b),~~ The costs of personal services in the administration of a ~~county~~ **local** office's duties ~~under this article if the employment is necessary for the administration of the county office's duties imposed upon the county office by this article and rules prescribed by the division or the department shall be paid by the following:~~

~~(1) the division, for activities~~ described in section ~~7(a)(1)~~ **7(a)** of this chapter

~~(2) The department, for activities described in section 7(a)(2) of this chapter.~~

~~(b) The division and the department shall negotiate and agree to the payment of personnel services within the administration of a county office for activities that qualify under both section 7(a)(1) and 7(a)(2) of this chapter.~~ **shall be paid by the division.**

SECTION 399. IC 12-19-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The division shall provide the necessary facilities to house the ~~county~~ **local** office.

(b) The division shall pay for the costs of the facilities, supplies, and equipment needed by each ~~county~~ **local** office. ~~including the transfer to the county that is required by IC 12-13-5.~~

SECTION 400. IC 12-19-1-10, AS AMENDED BY P.L.234-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. ~~(a)~~ Subject to the rules adopted by the director of the division, a ~~county~~ **local** office shall administer the following:

(1) Assistance to dependent children in the homes of the dependent children.

(2) Assistance and services to elderly persons.

(3) Assistance to persons with disabilities.

(4) Care and treatment of the following persons, **other than persons for whom the department of child services is providing services under IC 31 for the following:**

(A) Dependent children.

(B) Children with disabilities.

~~(5) Provision of family preservation services.~~

~~(6)~~ **(5)** Any other welfare activities that are delegated to the ~~county~~ **local** office by the division, ~~under this chapter,~~ including services concerning assistance to the blind.

SECTION 401. IC 12-19-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A ~~county~~ **local** office may sue and be sued under the name of "The ~~County~~ Office of Family ~~and Children~~ **Resources** of _____" **(Insert:** "County" **or "District", as appropriate).**

(b) The ~~county~~ **local** office has all other rights and powers and shall perform all other duties necessary to administer this chapter.

(c) A suit brought against a ~~county~~ **local** office may be filed in ~~the following:~~

~~(1) The~~ **any** circuit **or superior** court with jurisdiction in the ~~county.~~ **area served by the local office.**

~~(2) A superior court or any other court of the county.~~

(d) A notice or summons in a suit brought against the ~~county~~ **local** office must be served on the ~~county~~ **local** director. It is not required to name the individual employees of the ~~county~~ **local** office as either plaintiff or defendant.

SECTION 402. IC 12-19-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. (a) ~~A county office~~ **The division** may receive and administer a gift, devise, or bequest of personal property, including the income from real property, that is

~~(1)~~ to or for the benefit of ~~a home or an institution in which dependent or neglected children are cared for under the supervision of the county office; or~~

~~(2) for the benefit of children who are committed to the care or supervision of the county~~ **an individual receiving payments or services through a local** office.

~~(b) A county office may invest or reinvest money received under this section in the same types of securities in which life insurance companies are authorized by law to invest the money of the life insurance companies.~~

~~(c)~~ **(b)** The ~~following~~ **division** shall ~~be kept in~~ **establish** a special fund ~~and~~ **or an account in a trust fund for the money received under this section. The expenses of administering the fund or account shall be paid from money in the fund or account. The money** may not be commingled with ~~any other fund or with~~ money received from taxation.

~~(1) All money received by the county office under this section.~~

~~(2) All money, proceeds, or income realized from real property or~~

~~other investments.~~

(c) The treasurer of state shall invest the money in the fund or account not currently needed to meet the obligations of the fund or account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund or account.

(d) Money in the fund or account at the end of a state fiscal year does not revert to the state general fund.

~~(d)~~ **(e)** Subject to the approval of the judge or the court of the county having probate jurisdiction, money ~~described in subsection (c)(1) or (c)(2)~~ **in the fund or account** may be expended by the ~~county office~~ **division** in any manner consistent with the purposes of the ~~fund's creation~~ **fund or account created under this section** and with the intention of the donor.

SECTION 403. IC 12-19-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. (a) This section does not apply to money ~~received to reimburse the county family and children's fund for expenditures made from the appropriations of the county office.~~ **appropriated by the general assembly, including any federal grant.**

(b) ~~A county office may receive and administer money available to or for the benefit of a person receiving payments or services from the county office. The following applies to all money received under this section: (1) The money shall be kept in a special fund known as~~ The ~~county~~ family ~~and children~~ **resources** trust clearance fund ~~and~~ **is established to administer money available to or for the benefit of an individual receiving payments or services through a local office. The fund shall be administered by the division. Separate accounts in the fund shall be established, as appropriate, to carry out the purposes of the donors of the money deposited in the fund.**

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund may not be commingled with any other fund or with money received from taxation. ~~(2)~~ The money may be expended by the ~~county~~ **local** office in any manner consistent with the following:

~~(A)~~ **(1)** The purpose of the ~~county family and children trust clearance~~ fund or with the intention of the donor of the money.

~~(B)~~ **(2)** Indiana law.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues

from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 404. IC 12-19-1-18, AS AMENDED BY P.L.145-2006, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) After petition to and with the approval of the judge of ~~the~~ **a** circuit court **of the county where an applicant for or recipient of public assistance resides (or, if a superior court has probate jurisdiction in the county, the superior court that has probate jurisdiction where the recipient of public assistance resides),** a ~~county~~ **local** office may take the actions described in subsection (b) if:

(1) an applicant for public assistance is physically or mentally incapable of completing an application for assistance; or

(2) a recipient of public assistance:

(A) is incapable of managing the recipient's affairs; or

(B) refuses to:

(i) take care of the recipient's money properly; or

(ii) comply with the director of the division's rules and policies.

(b) If the conditions of subsection (a) are satisfied, the ~~county~~ **local** office may designate a responsible person to do the following:

(1) Act for the applicant or recipient.

(2) Receive on behalf of the recipient the assistance the recipient is eligible to receive under any of the following:

(A) This chapter.

(B) IC 12-10-6.

(C) IC 12-14-1 through IC 12-14-9.5.

(D) IC 12-14-13 through IC 12-14-19.

(E) IC 12-15.

(F) IC 16-35-2.

(c) A fee for services provided under this section may be paid to the responsible person in an amount not to exceed ten dollars ($10) each month. The fee may be allowed:

(1) in the monthly assistance award; or

(2) by vendor payment if the fee would cause the amount of assistance to be increased beyond the maximum amount permitted by statute.

SECTION 405. IC 12-19-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A responsible person approved under section 18 of this chapter preferably must be a relative or friend of good moral character whose interest is limited to the

well-being of the applicant or recipient. However, the responsible person may not be any of the following:

(1) An employee of the ~~county~~ **local** office.

(2) The superintendent of a county home.

(3) A person directly or indirectly financially connected with a health facility or an institution giving care to the recipient.

(4) A person directly or indirectly connected with the operation of a health facility or an institution giving care to the recipient.

(b) Costs may not be charged by a person or public official in proceedings concerning the appointment of a responsible person under section 18 of this chapter.

SECTION 406. IC 12-19-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 21. **(a)** Notwithstanding any other law, after December 31, 1999, a county may not impose any of the following:

(1) A property tax levy for a county welfare fund.

(2) A property tax levy for a county welfare administration fund.

(b) Notwithstanding any other law, after December 31, 2008, a county may not impose any of the following:

(1) A property tax levy for a county medical assistance to wards fund.

(2) A property tax levy for a county family and children's services fund.

(3) A property tax levy for a children's psychiatric residential treatment services fund.

(4) A property tax levy for a children with special health care needs county fund.

SECTION 407. IC 12-19-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. ~~(a) All bonds issued and loans made under IC 12-1-11 (before its repeal) or this article before January 1, 2000, that are payable from property taxes imposed under IC 12-19-3 (before its repeal):~~

~~(1) are direct general obligations of the county issuing the bonds or making the loans; and~~

~~(2) are payable out of unlimited ad valorem taxes that shall be levied and collected on all taxable property within the county.~~

~~(b)~~ Each official and body responsible for the levying of taxes for the county must ensure that sufficient levies are made to meet the principal and interest on ~~the~~ **all** bonds **issued** and loans **made under this article before January 1, 2009,** at the time fixed for the payment of the principal

and interest, without regard to any other statute. If an official or a body fails or refuses to make or allow a sufficient levy required by this section, the bonds and loans and the interest on the bonds and loans shall be payable out of the county general fund without appropriation.

SECTION 408. IC 12-19-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Unless expressly prohibited by law, the premiums on all bonds that an officer or other person is required to execute under this article shall be paid in the same manner as other expenses of the division ~~or county office~~ are paid out of the appropriation for fixed charges.

SECTION 409. IC 12-19-2-2, AS AMENDED BY P.L.234-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The following are not personally liable, except to the state, for an official act done or omitted in connection with the performance of duties under this article:

(1) The director of the division.

(2) Officers and employees of the division.

(3) Officers and employees of a ~~county~~ **local** office.

~~(4) The director of the department of child services.~~

~~(5) Officers and employees of the department of child services.~~

SECTION 410. IC 12-19-2-3, AS AMENDED BY P.L.234-2005, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. An officer or employee of:

(1) the division; **or**

(2) a ~~county~~ **local** office; ~~or~~

~~(3) the department of child services;~~

may administer oaths and affirmations required to carry out the purposes of this article or of any other statute imposing duties on the ~~county~~ **local** office.

SECTION 411. IC 12-19-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A person who is related to a ~~county~~ **local** director in the following manner is not eligible for a position in the ~~county~~ **local** office:

(1) Husband or wife.

(2) Father or mother.

(3) Son or daughter.

(4) Son-in-law or daughter-in-law.

(5) Brother or sister.

(6) Niece or nephew.

(7) Uncle or aunt.

SECTION 412. IC 12-19-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person prohibited under section 5 of this chapter from employment with a ~~county~~ **local** office may not receive compensation for services performed for the ~~county~~ **local** office from appropriations made by the state or by the county.

SECTION 413. IC 12-19-7-1, AS AMENDED BY P.L.145-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "child services" means the following:

(1) Child welfare services specifically provided for children who are:

(A) adjudicated to be:

(i) children in need of services; or

(ii) delinquent children; or

(B) recipients of or are eligible for:

(i) informal adjustments;

(ii) service referral agreements; and

(iii) adoption assistance;

including the costs of using an institution or facility in Indiana for providing educational services as described in either IC 20-33-2-29 (if applicable) or IC 20-26-11-13 (if applicable), all services required to be paid by a county under IC 31-40-1-2, and all costs required to be paid by a county under IC 20-26-11-12.

(2) Assistance awarded by a county to a destitute child under IC 31-26-2.

(3) Child welfare services as described in IC 31-26-3 **(before its repeal) or child welfare programs under IC 31-26-3.5.**

SECTION 414. IC 12-19-7-1.5, AS AMENDED BY P.L.145-2006, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) The division or the department of child services may transfer any of the following to a county family and children's fund:

(1) Money transferred under P.L.273-1999, SECTION 126, to the division from a county welfare fund on or after July 1, 2000, without regard to the county from which the money was transferred.

(2) Money appropriated to the division or department for any of the following:

(A) Assistance awarded by the department or a county office to a destitute child under IC 31-26-2.

(B) Child welfare services as described in IC 31-26-3 **(before its repeal) or child welfare programs under IC 31-26-3.5.**

(C) Any other services for which the expenses were paid from a county welfare fund before January 1, 2000.

(b) Money transferred under subsection (a)(1) or (a)(2) must be used for purposes described in subsection (a)(2).

SECTION 415. IC 12-24-13-5, AS AMENDED BY P.L.1-2005, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) **Except as provided in section 6 of this chapter,** whenever placement of a child with a disability (as defined in IC 20-35-1-2) in a state institution is necessary for the provision of special education for that child, the cost of the child's education program, nonmedical care, and room and board shall be paid by the division rather than by the child's parents, guardian, or other responsible party.

(b) The child's parents, guardian, or other responsible party shall pay the cost of any transportation not required by the child's individualized education program (as defined in IC 20-18-2-9). The school corporation in which the child has legal settlement (as determined under IC 20-26-11) shall pay the cost of transportation required by the student's individualized education program under IC 20-35-8-2. However, this section does not relieve an insurer or other third party from an otherwise valid obligation to provide or pay for the services provided to the child.

(c) The Indiana state board of education and the divisions shall jointly establish a procedure and standards for determining when placement in a state institution is necessary for the provision of special education for a child.

SECTION 416. IC 12-24-13-6, AS AMENDED BY P.L.145-2006, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. The department of child services ~~or a county office~~ is responsible for the cost of treatment or maintenance of a child under the department's ~~or county office's~~ custody or supervision who is placed **by or with the consent of the department of child services** in a state institution. ~~only if the cost is reimbursable under the state Medicaid program under IC 12-15.~~

SECTION 417. IC 12-26-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. A juvenile court that commits a child under this article shall require the ~~county office~~ **department of child services for a child who is a child in need of services** or the probation department for the court to report to the court on the progress made in implementing the commitment at least every six (6) months. If the committed child is a child in need of services, the ~~county office~~ **department of child services** shall perform case reviews of the

child's commitment under IC 31-34-21.

SECTION 418. IC 12-26-10-4, AS AMENDED BY P.L.145-2006, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. If the comfort and the care of an individual are not otherwise provided:

(1) from the individual's estate;

(2) by the individual's relatives or friends; or

(3) through financial assistance from the department of child services **or** the division of family resources; ~~or a county office;~~

the court may order the assistance furnished and paid for out of the general fund of the county.

SECTION 419. IC 12-29-1-5, AS AMENDED BY HEA 1137-2008, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance (before January 1, 2009). ~~or the county board of tax and capital projects review (after December 31, 2008).~~

(5) **Before July 1, 2008,** the right of taxpayers and voters to remonstrate against the issuance of bonds.

(6) After June 30, 2008:

(A) the right of taxpayers and voters to remonstrate against the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

SECTION 420. IC 12-29-2-18, AS AMENDED BY P.L.219-2007, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

SECTION 421. IC 13-18-8-2, AS AMENDED BY P.L.224-2007, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) If the offender is a municipal corporation, the cost of:

(1) acquisition, construction, repair, alteration, or extension of the necessary plants, machinery, or works; or

(2) taking other steps that are necessary to comply with the order;

shall be paid out of money on hand available for these purposes or out of the general money of the municipal corporation not otherwise appropriated.

(b) If there is not sufficient money on hand or unappropriated, the necessary money shall be raised by the issuance of bonds. The bond issue is subject only to the approval of the department of local government finance (before ~~January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008).~~ **July 1, 2008).**

SECTION 422. IC 13-21-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. (a) A district located in a county having a population of more than thirty-two thousand (32,000) but less than thirty-three thousand (33,000) may appeal to the department of local government finance to have a property tax rate in excess of the rate permitted by section 12 of this chapter. The appeal may be granted if the district establishes that all of the following conditions exist:

(1) The district is in the process of constructing a landfill.

(2) A higher property tax rate is necessary to pay the fees charged by out of county landfills to dispose of solid waste generated in the

district during the design and construction phases of the landfill being established by the district.

(b) The procedure applicable to maximum levy appeals under IC 6-1.1-18.5 applies to an appeal under this section. Any additional levy granted under this section

~~(1) is not part of the total county tax levy (as defined in IC 6-1.1-21-2); and~~

~~(2)~~ may not exceed seven and thirty-three hundredths cents ($0.0733) on each one hundred dollars ($100) of assessed valuation of property in the district.

(c) The department of local government finance shall establish the tax rate if a higher tax rate is permitted.

(d) A property tax rate imposed under this section expires not later than December 31, 1997.

SECTION 423. IC 13-21-3-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15.5. (a) A district may appeal to the department of local government finance to have a property tax rate in excess of the rate permitted by section 12 of this chapter. The appeal may be granted if the district with respect to 2001 property taxes payable in 2002:

(1) imposed the maximum property tax rate established under section 12 of this chapter; and

(2) collected property tax revenue in an amount less than the maximum permissible ad valorem property tax levy determined for the district under IC 6-1.1-18.5.

(b) The procedure applicable to maximum levy appeals under IC 6-1.1-18.5 applies to an appeal under this section.

(c) An additional levy granted under this section

~~(1) is not part of the total county tax levy (as defined in IC 6-1.1-21-2); and~~

~~(2)~~ may not exceed the rate calculated to result in a property tax levy equal to the maximum permissible ad valorem property tax levy determined for the district under IC 6-1.1-18.5.

(d) The department of local government finance shall establish the tax rate if a higher tax rate is permitted.

SECTION 424. IC 14-23-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~Annually~~ **(a) Before January 1, 2009,** there shall **annually** be levied, ~~and collected~~ as other ~~state~~ **ad valorem property** taxes are levied, ~~and collected~~ the amount of sixteen hundredths of one cent ($0.0016) upon each one hundred dollars

($100) worth of taxable property in Indiana. **An ad valorem property tax may not be levied under this section for property taxes first due and payable after December 31, 2008.**

(b) The ad valorem property tax imposed under this section shall be collected as other ad valorem property taxes are collected. The county in which the property tax is levied shall transfer the amounts collected from the levy to the treasurer of state for deposit in the fund.

(c) The money collected resulting from one hundred fifty-seven thousandths of one cent ($0.00157) of the rate shall be paid into the fund. The money collected resulting from three thousandths of one cent ($0.00003) is appropriated to the budget agency for purposes of department of local government finance data base management.

(d) This section expires January 1, 2009.

SECTION 425. IC 14-27-6-40, AS AMENDED BY P.L.219-2007, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. The provisions of IC 5-1 and IC 6-1.1-20 relating to the following apply to proceedings under this chapter:

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.

(2) The giving of notice of determination to issue bonds.

(3) The giving of notice of hearing on the appropriation of the proceeds of bonds and the right of taxpayers to appeal and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) The sale of bonds at public sale for not less than the par value.

SECTION 426. IC 14-30-2-19, AS AMENDED BY P.L.224-2007, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The commission shall prepare an annual budget for the commission's operation and other expenditures under IC 6-1.1-17. However, the annual budget is not subject to review and modification by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ of any county. Notwithstanding any other law, the

budget of the commission shall be treated for all other purposes as if the appropriate county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ had approved the budget.

SECTION 427. IC 14-30-4-16, AS AMENDED BY P.L.224-2007, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) The commission shall prepare an annual budget for the commission's operation and other expenditures under IC 6-1.1-17. The annual budget is subject to review and modification by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ of any participating county.

(b) The commission is not eligible for funding through the Wabash River heritage corridor commission established by IC 14-13-6-6.

SECTION 428. IC 14-33-9-1, AS AMENDED BY P.L.224-2007, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The budget of a district:

(1) must be prepared and submitted:

(A) at the same time;

(B) in the same manner; and

(C) with notice;

as is required by statute for the preparation of budgets by municipalities; and

(2) is subject to the same review by:

(A) the county board of tax adjustment; ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008);~~ and

(B) the department of local government finance;

as is required by statute for the budgets of municipalities.

(b) If a district is established in more than one (1) county:

(1) except as provided in subsection (c), the budget shall be certified to the auditor of the county in which is located the court that had exclusive jurisdiction over the establishment of the district; and

(2) notice must be published in each county having land in the district. Any taxpayer in the district is entitled to be heard before the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review~~ **and,** after December 31, 2008, **the fiscal body of each county** having jurisdiction.

(c) If one (1) of the counties in a district contains either a first or second class city located in whole or in part in the district, the budget:

(1) shall be certified to the auditor of that county; and

(2) is subject to review at the county level only by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review~~ **and,** after December 31, 2008, **the fiscal body** of that county.

SECTION 429. IC 14-33-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Before offering bonds for sale, the board shall give notice in the same manner as is ~~provided~~ **required by IC 6-1.1-20** for the sale of bonds by municipal corporations.

(b) Persons affected are entitled to:

(1) remonstrate against issuance of the bonds **(in the case of a preliminary determination made before July 1, 2008, to issue bonds); or**

(2) vote on the proposed issuance of bonds in an election on a local public question (in the case of a preliminary determination made after June 30, 2008, to issue bonds).

(c) An action to question the validity of the bonds may not be instituted after the date fixed for sale, and the bonds are incontestable after that time.

SECTION 430. IC 14-33-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. If the board is denied the right to issue bonds as a result of remonstrance proceedings **or an election on a local public question held under IC 6-1.1-20-3.6:**

(1) all contracts let by the board for work to be paid from the sale of bonds are void; and

(2) no liability accrues to the district or to the board.

SECTION 431. IC 15-13-8-3, AS ADDED BY SEA 190, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The fund consists of the following:

(1) Revenue from the property tax imposed under IC 15-13-9 **before January 1, 2009.**

(2) Appropriations made by the general assembly.

(3) Interest accruing from investment of money in the fund.

(4) Certain proceeds from the operation of the fair.

(b) The fund is divided into the following accounts:

(1) Agricultural fair revolving contingency account.

(2) Other accounts established by the commission.

(c) The money credited to the agricultural fair revolving contingency account may be used only to pay start-up expenses for the fair each year. Money used to pay the start-up expenses from the account must be

replaced using proceeds from the operation of the fair before the proceeds may be used for any other purpose.

SECTION 432. IC 15-13-9-1, AS ADDED BY SEA 190, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A tax is imposed upon all the taxable property in Indiana at a rate of eight hundredths of a cent ($0.0008) for each one hundred dollars ($100) of assessed valuation **for property taxes first due and payable before January 1, 2009. The state may not impose an ad valorem property tax under this section for property taxes first due and payable after December 31, 2008.**

SECTION 433. IC 15-13-9-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5. This chapter expires January 1, 2009.**

SECTION 434. IC 16-22-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) If the execution of the original or a modified lease is authorized, notice of the signing shall be published on behalf of the county one (1) time in a newspaper of general circulation and published in the county. Except as provided in subsection (b), at least ten (10) taxpayers in the county whose tax rate will be affected by the proposed lease may file a petition with the county auditor not more than thirty (30) days after publication of notice of the execution of the lease. The petition must set forth the objections to the lease and facts showing that the execution of the lease is unnecessary or unwise or that the lease rental is not fair and reasonable.

(b) The authority for taxpayers to object to a proposed lease described in subsection (a) does not apply if the authority complies with the procedures for the issuance of bonds and other evidences of indebtedness described in ~~IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2.~~ **IC 6-1.1-20.**

SECTION 435. IC 16-22-8-43, AS AMENDED BY P.L.194-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) The corporation may issue general obligation bonds to procure funds to pay the cost of acquiring real property or constructing, enlarging, improving, remodeling, repairing, or equipping buildings for use as a hospital, a health care facility, or an administrative facility. The issuance of the bonds shall be authorized by a board resolution providing for the amount, terms, and tenor of the bonds, for the time and character of notice, and the mode of making the sale. The bonds shall be payable not more than forty (40) years after the date of issuance. The bonds shall be executed in the name of the corporation by the executive director.

(b) The executive director shall manage and supervise the preparation, advertisement, and sale of bonds, subject to the provisions of the authorizing resolution. Before the sale of the bonds, the executive director shall publish notice of the sale in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest and best bidder. After the bonds have been sold and executed, the executive director shall deliver the bonds to the treasurer of the corporation and take the treasurer's receipt, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and executive director shall report the actions to the board.

(c) IC 5-1 and IC 6-1.1-20 apply to the following proceedings:

(1) Notice and filing of the petition requesting the issuance of the bonds.

(2) Notice of determination to issue bonds.

(3) Notice of hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appeal and be heard.

(4) Approval by the department of local government finance.

(5) The right to:

(A) remonstrate **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) Sale of bonds at public sale for not less than the par value.

(d) The bonds are the direct general obligations of the corporation and are payable out of unlimited ad valorem taxes levied and collected on all the taxable property within the county of the corporation. All officials and bodies having to do with the levying of taxes for the corporation shall see that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for payment.

(e) The bonds are exempt from taxation for all purposes but the interest is subject to the adjusted gross income tax.

SECTION 436. IC 16-33-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Whenever the circuit court having jurisdiction finds, upon application by the ~~county~~ **local** office of ~~family and children,~~ **the division of family resources,** that the parent or guardian of a client placed in the center is unable to meet the

costs that the parent or guardian is required to pay for the services of the center, the court shall order payment of the costs from the county general fund.

SECTION 437. IC 16-33-4-12, AS AMENDED BY P.L.145-2006, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) An application for admission to the home may be made by a responsible parent, a guardian, a representative of the court, or the ~~county office of family and children.~~ **department of child services.**

(b) If an application is submitted by a person other than a responsible parent or guardian, the superintendent of the home shall cooperate with ~~the appropriate county office of family and children, either directly or through~~ the department of child services to ensure that an appropriate case study is made upon application and continued throughout the period the child resides at the home.

SECTION 438. IC 16-33-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The superintendent is responsible for the care, control, and training of children admitted to and living in the home from the day a child is admitted to the home until the child is:

(1) eighteen (18) years of age; or

(2) discharged from the home.

(b) The superintendent shall make certain in the case of every child in the home that:

(1) there is a responsible parent;

(2) there is a responsible relative; or

(3) if a responsible parent or relative is not available, the child is a ward of the ~~county office of family and children in the county of residence~~ **department of child services** from which there is a representative;

who is regularly and frequently concerned with the welfare of the child.

(c) If:

(1) the parent or parents have been deprived of the custody and control of a child by order of the court; and

(2) custody has been given by the court to ~~a county office of family and children;~~ **the department of child services;**

the wardship shall be retained by the ~~county office of family and children.~~ **department of child services.**

SECTION 439. IC 16-33-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Either parent,

a guardian, a relative, or ~~a county office of family and children,~~ **the department of child services** applying for the admission of a child to the home shall, in securing admittance of the child, place the child in the home for the length of time determined to be in the best interests of the child.

(b) A child shall be returned at any time to the:

(1) parent or parents;

(2) relative; or

(3) ~~county office of family and children~~ **department of child services** that placed the child in the home;

if removal of the child from the home is applied for upon written application. The superintendent may require not more than thirty (30) days notice when a discharge is requested.

(c) If the superintendent finds that a child does not adjust to institutional living or is not educable, the superintendent:

(1) may:

(A) with the approval of the state health commissioner; and

(B) upon proper notification;

discharge the child to the applicant placing the child in the home; and

(2) shall cooperate with the ~~appropriate county office of family and children~~ **department of child services** for further disposition of the case as necessary.

SECTION 440. IC 16-33-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A child admitted to the home may not be permanently removed from the home and placed elsewhere without the express approval of the:

(1) parent or parents who;

(2) guardian who;

(3) relative who; or

(4) ~~county office of family and children~~ **department of child services** that;

applied for admission of the child to the home.

SECTION 441. IC 16-33-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. Either parent, a guardian, a relative, a representative of the ~~county office of family and children,~~ **department of child services,** or other person approved by the superintendent may visit a child being maintained in the home at times or places the superintendent prescribes.

SECTION 442. IC 16-33-4-17, AS AMENDED BY P.L.145-2006,

SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Each child, the estate of the child, the parent or parents of the child, or the guardian of the child, individually or collectively, are liable for the payment of the costs of maintenance of the child of up to one hundred percent (100%) of the per capita cost, except as otherwise provided. The cost shall be computed annually by dividing the total annual cost of operation for the fiscal year, exclusive of the cost of education programs, construction, and equipment, by the total child days each year. The maintenance cost shall be referred to as maintenance charges. The charge may not be levied against any of the following:

(1) The department of child services. ~~or the county office of family and children~~

(2) A county or any person or office, to be derived from county tax sources.

~~(2)~~ **(3)** A child orphaned by reason of the death of the natural parents.

(b) The billing and collection of the maintenance charges as provided for in subsection (a) shall be made by the superintendent of the home based on the per capita cost for the preceding fiscal year. All money collected shall be deposited in a fund to be known as the Indiana soldiers' and sailors' children's home maintenance fund. The fund shall be used by the state health commissioner for the:

(1) preventative maintenance; and

(2) repair and rehabilitation;

of buildings of the home that are used for housing, food service, or education of the children of the home.

(c) The superintendent of the home may, with the approval of the state health commissioner, agree to accept payment at a lesser rate than that prescribed in subsection (a). The superintendent of the home shall, in determining whether or not to accept the lesser amount, take into consideration the amount of money that is necessary to maintain or support any member of the family of the child. All agreements to accept a lesser amount are subject to cancellation or modification at any time by the superintendent of the home with the approval of the state health commissioner.

(d) A person who has been issued a statement of amounts due as maintenance charges may petition the superintendent of the home for a release from or modification of the statement and the superintendent shall provide for hearings to be held on the petition. The superintendent of the home may, with the approval of the state health commissioner and after

the hearing, cancel or modify the former statement and at any time for due cause may increase the amounts due for maintenance charges to an amount not to exceed the maximum cost as determined under subsection (a).

(e) The superintendent of the home may arrange for the establishment of a graduation or discharge trust account for a child by arranging to accept a lesser rate of maintenance charge. The trust fund must be of sufficient size to provide for immediate expenses upon graduation or discharge.

(f) The superintendent may make agreements with instrumentalities of the federal government for application of any monetary awards to be applied toward the maintenance charges in a manner that provides a sufficient amount of the periodic award to be deposited in the child's trust account to meet the immediate personal needs of the child and to provide a suitable graduation or discharge allowance. The amount applied toward the settlement of maintenance charges may not exceed the amount specified in subsection (a).

(g) The superintendent of the home may do the following:

(1) Investigate, either with the superintendent's own staff or on a contractual or other basis, the financial condition of each person liable under this chapter.

(2) Make determinations of the ability of:

(A) the estate of the child;

(B) the legal guardian of the child; or

(C) each of the responsible parents of the child;

to pay maintenance charges.

(3) Set a standard as a basis of judgment of ability to pay that shall be recomputed periodically to do the following:

(A) Reflect changes in the cost of living and other pertinent factors.

(B) Provide for unusual and exceptional circumstances in the application of the standard.

(4) Issue to any person liable under this chapter statements of amounts due as maintenance charges, requiring the person to pay monthly, quarterly, or otherwise as may be arranged, an amount not exceeding the maximum cost as determined under this chapter.

SECTION 443. IC 16-33-4-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 17.5. (a) In the case of a child who is:

~~(1) admitted to the home from another county; and~~

~~(2)~~ **(1)** adjudicated to be a delinquent child or child in need of

services by ~~the~~ **a** juvenile court; ~~in the county where the home is located;~~ **and**

(2) placed by or with the consent of the department of child services in the home;

the ~~juvenile court may order the county office of family and children of the child's county of residence before the child's admission to the home to~~ **department of child services shall** reimburse the cost of services ~~ordered by the juvenile court,~~ **provided to the child,** including related transportation costs, and any cost incurred by ~~the~~ **a** county **where the home is located** to transport or detain the child before the ~~order is issued.~~ **child is adjudicated to be a delinquent child or child in need of services.**

(b) ~~A county office of family and children ordered to~~ **The department of child services shall** reimburse **and pay** costs under this section. ~~shall pay the amount ordered from the county family and children's fund.~~

(c) The ~~county office of family and children~~ **department of child services** may require the parent or guardian of the child, other than a parent, guardian, or custodian associated with the home, to reimburse the ~~county family and children's fund~~ **department** for an amount paid under this section.

(d) A child who is admitted to the home does not become a resident of the county where the home is located.

(e) When an unemancipated child is released from the home, the ~~county office of family and children for the child's county of residence before entering the home~~ **department of child services** is responsible for transporting the child to the parent or guardian of the child. If a parent or guardian does not exist for an unemancipated child released from the home, the ~~county office of family and children of the child's county of residence before entering the home~~ **department of child services** shall obtain custody of the child.

SECTION 444. IC 16-34-2-1.1, AS AMENDED BY P.L.36-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined

in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed the pregnant woman of the following:

(A) The name of the physician performing the abortion.

(B) The nature of the proposed procedure or treatment.

(C) The risks of and alternatives to the procedure or treatment.

(D) The probable gestational age of the fetus, including an offer to provide:

(i) a picture or drawing of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(E) The medical risks associated with carrying the fetus to term.

(F) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be orally informed of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the ~~county~~ **local** office of ~~family and children.~~ **the division of family resources.**

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(3) The pregnant woman certifies in writing, before the abortion is performed, that the information required by subdivisions (1) and (2) has been provided.

(b) Before an abortion is performed, the pregnant woman may, upon the pregnant woman's request, view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible.

SECTION 445. IC 16-34-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) All abortions performed after a fetus is viable shall be:

(1) governed by section 1(a)(3) and 1(b) of this chapter;

(2) performed in a hospital having premature birth intensive care units, unless compliance with this requirement would result in an increased risk to the life or health of the mother; and

(3) performed in the presence of a second physician as provided in subsection (b).

(b) An abortion may be performed after a fetus is viable only if there is in attendance a physician, other than the physician performing the abortion, who shall take control of and provide immediate care for a child born alive as a result of the abortion. During the performance of the abortion, the physician performing the abortion, and after the abortion, the physician required by this subsection to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child. However, this subsection does not apply if compliance would result in an increased risk to the life or health of the mother.

(c) Any fetus born alive shall be treated as a person under the law, and a birth certificate shall be issued certifying the child's birth even though the child may subsequently die, in which event a death certificate shall be issued. Failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible persons to Indiana laws governing homicide, manslaughter, and civil liability for wrongful death and medical malpractice.

(d) If, before the abortion, the mother, and if married, her husband, has or have stated in writing that she does or they do not wish to keep the child in the event that the abortion results in a live birth, and this writing is not retracted before the abortion, the child, if born alive, shall immediately upon birth become a ward of the ~~county office of family and children.~~ **department of child services.**

SECTION 446. IC 16-35-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Notwithstanding the repeal of IC 16-35-3,** all money contained in **or received for deposit in** the children with special health care needs county fund established in each county under IC 16-35-3 **(repealed)** shall be transferred at the end of each month to the children with special health care needs state fund.

SECTION 447. IC 16-35-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The children with special health care needs state fund consists of the following:

(1) Money transferred ~~to the fund from the children with special~~

~~health care needs county fund~~ under ~~IC 16-35-3.~~ **section 2 of this chapter.**

(2) Contributions to the fund from individuals, corporations, foundations, or other persons for the purpose of providing money to assist children with special health care needs.

(3) Appropriations made specifically to the fund by the general assembly.

SECTION 448. IC 16-39-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. If an emergency exists in which a child is alleged to be a child in need of services under IC 31-34-1 and the ~~county office of family and children~~ **department of child services** seeks access to the mental health records of the parent, guardian, or custodian of the child as a part of a preliminary inquiry under IC 31-34-7, the ~~county office~~ **department of child services** may file a verified petition, which sets forth the facts the ~~county office~~ **department of child services** alleges constitute an emergency, seeking an emergency hearing under this section. A request for access to a patient's mental health record under this section shall be heard by the **juvenile** court having jurisdiction under IC 31-30 through IC 31-40. Notice of a hearing to be conducted under this section shall be served not later than twenty-four (24) hours before the hearing to all persons entitled to receive notice under section 4 of this chapter. If actual notice cannot be given, the ~~county office~~ **department of child services** shall file with the court an affidavit stating that verbal notice or written notice left at the last known address of the respondent was attempted not less than twenty-four (24) hours before the hearing. A hearing under this section shall be held not later than forty-eight (48) hours after the petition for an emergency hearing is filed. The **juvenile** court shall enter written findings concerning the release or denial of the release of the mental health records of the parent, guardian, or custodian. The **juvenile** court shall order the release of the mental health records if the court finds the following by a preponderance of the evidence:

(1) Other reasonable methods of obtaining the information sought are not available or would not be effective.

(2) The need for disclosure in the best interests of the child outweighs the potential harm to the patient caused by a necessary disclosure. In weighing the potential harm to the patient, the **juvenile** court shall consider the impact of disclosure on the provider-patient relationship and the patient's rehabilitative process.

SECTION 449. IC 16-40-1-2, AS AMENDED BY P.L.99-2007,

SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), each:

(1) physician;

(2) superintendent of a hospital;

(3) director of a local health department;

(4) director of a ~~county~~ **local** office of ~~family and children;~~ **the department of child services;**

(5) director of the division of disability and rehabilitative services;

(6) superintendent of a state institution serving individuals with a disability; or

(7) superintendent of a school corporation;

who diagnoses, treats, provides, or cares for a person with a disability shall report the disabling condition to the state department within sixty (60) days.

(b) Each:

(1) physician holding an unlimited license to practice medicine; or

(2) optometrist licensed under IC 25-24-1;

shall file a report regarding a person who is blind or has a visual impairment with the office of the secretary of family and social services in accordance with IC 12-12-9.

SECTION 450. IC 20-19-2-8, AS ADDED BY P.L.65-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) In addition to any other powers and duties prescribed by law, the state board shall adopt rules under IC 4-22-2 concerning, but not limited to, the following matters:

(1) The designation and employment of the employees and consultants necessary for the department. The state board shall fix the compensation of employees of the department, subject to the approval of the budget committee and the governor under IC 4-12-2.

(2) The establishment and maintenance of standards and guidelines ~~other than building, space, and site requirements,~~ for media centers, libraries, instructional materials centers, or any other area or system of areas in a school where a full range of information sources, associated equipment, and services from professional media staff are accessible to the school community. With regard to library automation systems, the state board may only adopt rules that meet the standards established by the state library board for library automation systems under IC 4-23-7.1-11(b).

(3) The establishment and maintenance of standards for student personnel and guidance services.

(4) The establishment and maintenance of minimum standards for driver education programs (including classroom instruction and practice driving) and equipment. Classroom instruction standards established under this subdivision must include instruction about:

(A) railroad-highway grade crossing safety; and

(B) the procedure for participation in the human organ donor program.

(5) The inspection of all public schools in Indiana to determine the condition of the schools. The state board shall establish standards governing the accreditation of public schools. Observance of:

(A) IC 20-31-4;

(B) IC 20-28-5-2;

(C) IC 20-28-6-3 through IC 20-28-6-7;

(D) IC 20-28-9-7 and IC 20-28-9-8;

(E) IC 20-28-11; and

(F) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, and IC 20-32-8;

is a prerequisite to the accreditation of a school. Local public school officials shall make the reports required of them and otherwise cooperate with the state board regarding required inspections. Nonpublic schools may also request the inspection for classification purposes. Compliance with the building and site guidelines adopted by the state board is not a prerequisite of accreditation.

(6) Subject to section 9 of this chapter, the adoption and approval of textbooks under IC 20-20-5.

(7) The distribution of funds and revenues appropriated for the support of schools in the state.

(8) The state board may not establish an accreditation system for nonpublic schools that is less stringent than the accreditation system for public schools.

(9) A separate system for recognizing nonpublic schools under IC 20-19-2-10. Recognition of nonpublic schools under this subdivision constitutes the system of regulatory standards that apply to nonpublic schools that seek to qualify for the system of recognition.

(10) The establishment and enforcement of standards and guidelines concerning the safety of students participating in cheerleading activities.

(b) Before final adoption of any rule, the state board shall make a finding on the estimated fiscal impact that the rule will have on school

corporations.

SECTION 451. IC 20-19-2-12, AS AMENDED BY P.L.1-2006, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) The state board shall, **in the manner provided by IC 4-22-2,** adopt **rules setting forth** nonbinding guidelines for the selection of school sites and the construction, alteration, and repair of school buildings, **athletic facilities, and other categories of facilities related to the operation and administration of school corporations.** The nonbinding guidelines ~~(1)~~ must include:

(1) preferred location and building practices for school corporations, including standards for enhancing health, **student safety, accessibility,** energy efficiency, ~~cost~~ **operating** efficiency, and instructional efficacy; ~~and~~

(2) ~~may include~~ guidelines concerning minimum acreage, cost per square foot ~~and~~ **or cost per ADM (as defined in IC 20-18-2-2), technology infrastructure, building materials,** per student square footage, **and other general space requirements, including space for academics, administration and staff support, arts education and auditoriums, libraries, cafeterias, athletics and physical education, transportation facilities, and maintenance and repair facilities; and**

(3) additional guidelines that the state board considers necessary for efficient and cost effective construction of school facilities.

The building law compliance officer appointed under IC 10-19-7-4, the office of management and budget, and the department of local government finance shall, upon request of the board, provide technical assistance as necessary for the development of the guidelines.

(b) The state board shall annually compile, in a document capable of easy revision, the:

(1) guidelines described in subsection (a); and

(2) rules of the:

(A) fire prevention and building safety commission; and

(B) state department of health;

that govern site selection and the construction, alteration, and repair of school buildings.

(c) **A school corporation shall consider the guidelines adopted under subsection (a) when developing plans and specifications for a facility described in subsection (a).** Before submitting completed written plans and specifications for the selection of a school building site or the construction or alteration of a school building to the division of fire and

building safety for issuance of a design release under IC 22-15-3, a school corporation shall **do the following:**

(1) Submit the proposed plans and specifications to the department. Within thirty (30) days after the department receives the plans and specifications, the department shall:

(A) review the plans and specifications to determine whether they comply with the guidelines adopted under subsection (a); and

(B) provide written recommendations concerning the plans and specifications to the school corporation, which must include findings as to any material differences between the plans and specifications and the guidelines adopted under subsection (a).

~~(1)~~ **(2) After the earlier of:**

(A) receipt of the recommendations provided under subdivision (1)(B); or

(B) the date that is thirty (30) days after the date the department received the plans and specifications under subdivision (1)(A);

issue a public document that describes **the recommendations, if any, and** any material differences between the plans and specifications prepared by the school corporation and the guidelines adopted under subsection (a), as determined under the guidelines adopted by the state board. ~~and~~

~~(2)~~ **(3)** After publishing a notice of the public hearing under IC 5-3-1, conduct a public hearing to receive public comment concerning the school corporation's plans and specifications.

After the public hearing and without conducting another public hearing under this subsection, the governing body may revise the plans and specifications or submit the plans and specifications to the division of fire and building safety without making changes. The school corporation shall revise the public document described in subdivision ~~(1)~~ **(2)** to identify any changes in the plans and specifications after the public document's initial preparation.

SECTION 452. IC 20-19-2-13, AS ADDED BY P.L.1-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. The state board may not approve or disapprove plans and specifications for the construction, alteration, or repair of school buildings, except as necessary under the following:

(1) The terms of a federal grant or a federal law.

(2) IC 20-35-4-2 concerning the authorization of a special school for children with disabilities.

However, the state board shall adopt guidelines concerning plans and specifications as required by section 12 of this chapter.

SECTION 453. IC 20-19-3-8, AS ADDED BY P.L.1-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. **(a)** The department may not approve or disapprove plans and specifications for the construction, alteration, or repair of school buildings, except as necessary under the following:

(1) The terms of a federal grant or a federal law.

(2) IC 20-35-4-2 concerning the authorization of a special school for children with disabilities.

(b) Notwithstanding subsection (a), the department shall do the following:

(1) Receive and review plans and specifications as required by IC 20-19-2-12.

(2) Establish a central clearinghouse for access by school corporations that may want to use a prototype design in the construction of school facilities. The department shall compile necessary publications and may establish a computer data base to distribute information on prototype designs to school corporations. Architects and engineers registered to practice in Indiana may submit plans and specifications for a prototype design to the clearinghouse. The plans and specifications may be accessed by any person. However, the following provisions apply to a prototype design submitted to the clearinghouse:

(A) The original architect of record or engineer of record retains ownership of and liability for a prototype design.

(B) A school corporation or other person may not use a prototype design without the site-specific, written permission of the original architect of record or engineer of record.

(C) An architect's or engineer's liability under clause (A) is subject to the requirements of clause (B).

The state board may adopt rules under IC 4-22-2 to implement this subdivision.

SECTION 454. IC 20-20-34-1, AS ADDED BY P.L.2-2006, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. This chapter applies to each school corporation. ~~imposing a property tax under IC 20-46-2 for a calendar year for the school corporation's special education preschool fund.~~

SECTION 455. IC 20-20-34-2, AS ADDED BY P.L.2-2006, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) The auditor of state shall distribute to each school corporation an amount equal to ~~the result of the following formula:~~

~~STEP ONE: Determine~~ the product of:

~~(A)~~ **(1)** two thousand seven hundred fifty dollars ($2,750); multiplied by

~~(B)~~ **(2)** the number of special education preschool children who are students in the school corporation, as annually determined by the department.

~~STEP TWO: Determine the greater of zero (0) or the remainder of:~~

~~(A) the STEP ONE amount; minus~~

~~(B) the property tax required by IC 20-46-2.~~

(b) A distribution under this section is in addition to any distribution of federal funds that are made available to the state for special education preschool programs.

SECTION 456. IC 20-20-36 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 36. Levy Replacement Grant

Sec. 1. As used in this chapter, "credit" refers to a credit granted under IC 6-1.1-20.6.

Sec. 2. As used in this chapter, "circuit breaker replacement amount" refers to the amount determined under section 5 of this chapter.

Sec. 3. As used in this chapter, "grant" refers to a grant distributed under this chapter.

Sec. 4. (a) Notwithstanding any other provision, a school corporation is eligible for a grant under this chapter in a particular year only if for that year the school corporation's total property tax revenue is expected to be reduced by more than two percent (2%) because of the application of credits in that year.

(b) Subject to subsection (a), an eligible school corporation is entitled to a grant in:

(1) 2009 equal to the eligible school corporation's circuit breaker replacement amount for property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates; and

(2) 2010 equal to the eligible school corporation's circuit breaker replacement amount for property taxes imposed for the March 1, 2009, and January 15, 2010, assessment dates.

Sec. 5. (a) An eligible school corporation's circuit breaker replacement amount for 2009 is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of credits granted against the eligible school corporation's combined levy for the eligible school corporation's debt service fund, capital projects fund, transportation fund, school bus replacement fund, and racial balance fund.

STEP TWO: Determine the sum of the STEP ONE amounts for all eligible school corporations in Indiana.

STEP THREE: Divide fifty million dollars ($50,000,000) by the STEP TWO amount, rounding to the nearest ten thousandth (0.0001).

STEP FOUR: Multiply the STEP THREE result by the STEP ONE amount, rounding to the nearest dollar ($1).

(b) An eligible school corporation's circuit breaker replacement amount for 2010 is equal to the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of credits granted against the eligible school corporation's combined levy for the school corporation's debt service fund, capital projects fund, transportation fund, school bus replacement fund, and racial balance fund.

STEP TWO: Determine the sum of the STEP ONE amounts for all eligible school corporations in Indiana.

STEP THREE: Divide seventy million dollars ($70,000,000) by the STEP TWO amount, rounding to the nearest ten thousandth (0.0001).

STEP FOUR: Multiply the STEP THREE result by the STEP ONE amount, rounding to the nearest dollar ($1).

Sec. 6. The department shall administer the grant program.

Sec. 7. (a) Not later than May 1 of a calendar year, the budget agency shall certify to the department an initial estimate of the circuit breaker replacement amount attributable to each school corporation for the calendar year.

(b) Not later than November 1 of a calendar year, the budget agency shall certify to the department a final estimate of the circuit breaker replacement amount attributable to each eligible school corporation for the calendar year.

(c) The budget agency shall compute an amount certified under this

section using the best information available to the budget agency at the time the certification is made.

Sec. 8. Subject to section 9 of this chapter, the department shall distribute a grant to an eligible school corporation equal to fifty percent (50%) of the eligible school corporation's estimated circuit breaker replacement amount for the calendar year in two (2) installments. An installment shall be paid not later than:

(1) June 20; and

(2) December 20;

of the calendar year.

Sec. 9. Based on the final estimate of the circuit breaker replacement amount certified to the department by the budget agency, the department shall settle any overpayment or underpayment of circuit breaker replacement amounts to an eligible school corporation. The department may offset overpayments of circuit breaker replacement amounts for a particular calendar year against:

(1) a grant; or

(2) state tuition support distribution;

that the eligible school corporation would otherwise be entitled to receive.

Sec. 10. An eligible school corporation shall deposit and use the amount received from a grant as follows:

(1) An amount equal to the revenue lost to the eligible school corporation's debt service fund as the result of the granting of credits shall be deposited in the eligible school corporation's debt service fund for purposes of the debt service fund.

(2) Any part of a grant remaining after making the deposit required under subdivision (1) may be deposited in any combination of the eligible school corporation's capital projects fund, transportation fund, school bus replacement fund, and racial balance fund, as determined by the school corporation.

SECTION 457. IC 20-21-2-8, AS ADDED BY P.L.1-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Upon the presentation of satisfactory evidence showing that:

(1) there is a school age individual with a visual disability residing in a county;

(2) the individual is entitled to the facilities of the school;

(3) the individual's parent wishes the individual to participate in the school's educational program but is unable to pay the expenses of

maintaining the individual at the school; and

(4) the individual is entitled to placement in the school under section 6 of this chapter;

a court with jurisdiction shall, upon application by the ~~county~~ **local** office of **the division of** family ~~and children,~~ **resources,** order the individual to be sent to the school at the expense of the county. The expenses include the expenses described in section 10 of this chapter and shall be paid from the county general fund.

SECTION 458. IC 20-22-2-8, AS ADDED BY P.L.1-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Upon the presentation of satisfactory evidence showing that:

(1) there is a school age individual with a hearing disability residing in a county;

(2) the individual is entitled to the facilities of the school;

(3) the individual's parent wishes the individual to participate in the school's educational program but is unable to pay the expenses of maintaining the individual at the school; and

(4) the individual is entitled to placement in the school under section 6 of this chapter;

a court with jurisdiction shall, upon application by the ~~county~~ **local** office of **the division of** family ~~and children,~~ **resources,** order the individual to be sent to the school at the expense of the county. The expenses include the expenses described in section 10 of this chapter and shall be paid from the county general fund.

SECTION 459. IC 20-23-4-42, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 42. (a) The ~~state board shall enforce the rules compiled under IC 20-19-2-8 that establish~~ procedures ~~and standards~~ **set forth in IC 20-19-2-12 concerning the review of, and public hearings concerning, plans and specifications** for the construction of, addition to, or remodeling of school facilities ~~The commission shall~~ apply ~~these rules~~ equally to facilities to be used or leased by both community school corporations and school corporations that are not community school corporations.

~~(b) A school building or an addition to a school building may not be constructed and a lease of a school building for a term of more than one (1) year may not be entered into by a school corporation other than a community school corporation or by two (2) or more school corporations jointly without the approval of the state board. For purposes of this~~

~~subsection, "community school corporation" does not include a community school corporation governed by an interim board of school trustees.~~

~~(c)~~ **(b)** An action ~~to question any approval referred to in this section or~~ to enjoin school construction or the performance of any of the terms and conditions of a lease or the execution, sale, or delivery of bonds, on the ground that any approval should not have been granted, may not be instituted at any time later than fifteen (15) days after approval has been granted.

SECTION 460. IC 20-24-7-2, AS AMENDED BY P.L.2-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Not later than the date established by the department for determining ADM, and after May 31 each year, the organizer shall submit to the department the following information on a form prescribed by the department:

(1) The number of students enrolled in the charter school.

(2) The name and address of each student.

(3) The name of the school corporation in which the student has legal settlement.

(4) The name of the school corporation, if any, that the student attended during the immediately preceding school year.

(5) The grade level in which the student will enroll in the charter school.

The department shall verify the accuracy of the information reported.

(b) This subsection applies after December 31 of the calendar year in which a charter school begins its initial operation. The department shall distribute to the organizer the state tuition support distribution. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution of state tuition support under IC 20-43-2 to other school corporations.

~~(c) The department shall provide to the department of local government finance the following information:~~

~~(1) For each county, the number of students who:~~

~~(A) have legal settlement in the county; and~~

~~(B) attend a charter school.~~

~~(2) The school corporation in which each student described in subdivision (1) has legal settlement.~~

~~(3) The charter school that a student described in subdivision (1) attends and the county in which the charter school is located.~~

~~(4) The amount of the tuition support levy determined under~~

~~IC 20-45-3-11 for each school corporation described in subdivision (2).~~

~~(5) The amount determined under STEP TWO of the following formula:~~

~~STEP ONE: Determine the product of:~~

~~(A) the target revenue per ADM (as defined in IC 20-43-1-26) determined for a charter school described in subdivision (3); multiplied by~~

~~(B) thirty-five hundredths (0.35).~~

~~STEP TWO: Determine the product of:~~

~~(A) the STEP ONE amount; multiplied by~~

~~(B) the current ADM of a charter school described in subdivision (3).~~

~~(6) The amount determined under STEP THREE of the following formula:~~

~~STEP ONE: Determine the number of students described in subdivision (1) who:~~

~~(A) attend the same charter school; and~~

~~(B) have legal settlement in the same school corporation located in the county.~~

~~STEP TWO: Determine the subdivision (5) STEP ONE amount for a charter school described in STEP ONE (A).~~

~~STEP THREE: Determine the product of:~~

~~(A) the STEP ONE amount; multiplied by~~

~~(B) the STEP TWO amount.~~

SECTION 461. IC 20-24-7-3, AS AMENDED BY P.L.2-2006, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) This section applies to a conversion charter school.

~~(b) Not later than the date established by the department for determining ADM and after July 2, the organizer shall submit to a governing body on a form prescribed by the department the information reported under section 2(a) of this chapter for each student who:~~

~~(1) is enrolled in the organizer's conversion charter school; and~~

~~(2) has legal settlement in the governing body's school corporation.~~

~~(c)~~ **(b)** Beginning not more than sixty (60) days after the department receives the information reported under section 2(a) of this chapter, the department shall distribute to the organizer:

(1) tuition support and other state funding for any purpose for students enrolled in the conversion charter school;

(2) a proportionate share of state and federal funds received:

(A) for students with disabilities; or

(B) **for** staff services for students with disabilities;

enrolled in the conversion charter school; and

(3) a proportionate share of funds received under federal or state categorical aid programs for students who are eligible for the federal or state categorical aid and are enrolled in the conversion charter school;

for the second six (6) months of the calendar year in which the conversion charter school is established. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution to the governing body of the school corporation in which the conversion charter school is located. A distribution to the governing body of the school corporation in which the conversion charter school is located is reduced by the amount distributed to the conversion charter school. This subsection does not apply to a conversion charter school after December 31 of the calendar year in which the conversion charter school is established.

~~(d) This subsection applies beginning with the first property tax distribution described in IC 6-1.1-27-1 to the governing body of the school corporation in which a conversion charter school is located after the governing body receives the information reported under subsection (b). Not more than ten (10) days after the governing body receives a property tax distribution described in IC 6-1.1-27-1, the governing body shall distribute to the conversion charter school the amount determined under STEP THREE of the following formula:~~

~~STEP ONE: Determine the quotient of:~~

~~(A) the number of students who:~~

~~(i) are enrolled in the conversion charter school; and~~

~~(ii) were counted in the ADM of the previous year for the school corporation in which the conversion charter school is located; divided by~~

~~(B) the current ADM of the school corporation in which the conversion charter school is located.~~

~~In determining the number of students enrolled under clause (A)(i), each kindergarten student shall be counted as one-half (1/2) student.~~

~~STEP TWO: Determine the total amount of the following revenues to which the school corporation in which the conversion charter school is located is entitled for the second six (6) months of the calendar year in which the conversion charter school is established:~~

~~(A) Revenues obtained by the school corporation's:~~

~~(i) general fund property tax levy; and~~

~~(ii) excise tax revenue (as defined in IC 20-43-1-12).~~

~~(B) The school corporation's certified distribution of county adjusted gross income tax revenue under IC 6-3.5-1.1 that is to be used as property tax replacement credits.~~

~~STEP THREE: Determine the product of:~~

~~(A) the STEP ONE amount; multiplied by~~

~~(B) the STEP TWO amount.~~

~~(e) Subsection (d) does not apply to a conversion charter school after the later of the following dates:~~

~~(1) December 31 of the calendar year in which the conversion charter school is established.~~

~~(2) Ten (10) days after the date on which the governing body of the school corporation in which the conversion charter school is located receives the final distribution described in IC 6-1.1-27-1 of revenues to which the school corporation in which the conversion charter school is located is entitled for the second six (6) months of the calendar year in which the conversion charter school is established.~~

~~(f)~~ **(c)** This subsection applies during the second six (6) months of the calendar year in which a conversion charter school is established. A conversion charter school may apply for an advance from the charter school advancement account under IC 20-49-7 in the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the result under subsection (d) STEP ONE (A).

STEP TWO: Determine the difference between:

(A) the conversion charter school's current ADM; minus

(B) the STEP ONE amount.

STEP THREE: Determine the quotient of:

(A) the STEP TWO amount; divided by

(B) the conversion charter school's current ADM.

STEP FOUR: Determine the product of:

(A) the STEP THREE amount; multiplied by

(B) the quotient of:

(i) the subsection (d) STEP TWO amount; divided by

(ii) two (2).

SECTION 462. IC 20-24-7-4, AS AMENDED BY P.L.2-2006, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) Services that a school corporation

provides to a charter school, including transportation, may be provided at not more than one hundred three percent (103%) of the actual cost of the services.

(b) This subsection applies to a sponsor that is a state educational institution described in IC 20-24-1-7(2). In a calendar year, a state educational institution may receive from the organizer of a charter school sponsored by the state educational institution an administrative fee equal to not more than three percent (3%) of the total amount the organizer receives during the calendar year

~~(1) under section 12 of this chapter; and~~

~~(2)~~ from basic tuition support (as defined in IC 20-43-1-8).

SECTION 463. IC 20-24-7-9, AS AMENDED BY P.L.2-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) This section applies if:

(1) a sponsor:

(A) revokes a charter before the end of the term for which the charter is granted; or

(B) does not renew a charter; or

(2) a charter school otherwise terminates its charter before the end of the term for which the charter is granted.

(b) Any ~~local or~~ state funds that remain to be distributed to the charter school in the calendar year in which an event described in subsection (a) occurs shall be distributed as follows:

(1) First, to the common school loan fund to repay any existing obligations of the charter school under IC 20-49-7.

(2) Second, to the entities that distributed the funds to the charter school. A distribution under this subdivision shall be on a pro rata basis.

(c) If the funds described in subsection (b) are insufficient to repay all existing obligations of the charter school under IC 20-49-7, the state shall repay any remaining obligations of the charter school under IC 20-49-7 from the amount appropriated for state tuition support distributions.

SECTION 464. IC 20-24.5-2-10, AS ADDED BY P.L.2-2007, SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. A laboratory school that:

(1) is operated without an agreement; and

(2) has an ADM of not more than seven hundred fifty (750);

must be treated as a charter school for purposes of ~~local funding under IC 20-45-3 and state~~ funding under IC 20-20-33 and IC 20-43.

SECTION 465. IC 20-25-8-3, AS ADDED BY P.L.1-2005, SECTION

9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Each school shall report to the ~~county~~ **local** office of ~~family and children~~ **the department of child services** the names of foster parents who have not completed a compact under this chapter.

SECTION 466. IC 20-26-7-17, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 17. (a) A school corporation may:

(1) purchase buildings or lands, or both, for school purposes; and

(2) improve the buildings or lands, or both.

(b) An existing building, other than a building obtained under IC 5-17-2 (before its repeal) or IC 4-13-1.7, permitting the purchase of suitable surplus government buildings, may not be purchased for use as a school building unless the building was originally constructed for use by the school corporation and used for that purpose for at least five (5) years preceding the acquisition as provided in this section through section 19 of this chapter.

(c) Notwithstanding this section through section 19 of this chapter limiting the purchase of school buildings, a school corporation may:

(1) purchase suitable buildings or lands, or both, adjacent to school property for school purposes; and

(2) improve the buildings or lands, or both, after giving notice to the taxpayers of the intention of the school corporation to purchase.

The taxpayers of the school corporation have the same right of appeal ~~to the department of local government finance~~ under the same procedure as provided for in IC 6-1.1-20-5 through IC 6-1.1-20-6.

SECTION 467. IC 20-26-7-18, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. A school corporation may issue and sell bonds under the general statutes governing the issuance of bonds to purchase and improve buildings or lands, or both. All laws relating to **approval (if required) in a local public question under IC 6-1.1-20,** the filing of petitions, remonstrances, and objecting petitions, giving notices of the filing of petitions, the determination to issue bonds, and the appropriation of the proceeds of the bonds are applicable to the issuance of bonds under sections 17 through 19 of this chapter.

SECTION 468. IC 20-26-9-12, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) School cities, school townships, school towns, and joint districts may:

(1) establish, equip, operate, and maintain school kitchens and

school lunchrooms for the improvement of the health of students and for the advancement of the educational work of their respective schools;

(2) employ all necessary directors, assistants, and agents; and

(3) appropriate funds for the school lunch program.

Participation in a school lunch program under this chapter is discretionary with the governing board of a school corporation.

(b) If federal funds are not available to operate a school lunch program:

(1) the state may not participate in a school lunch program; and

(2) money appropriated by the state for that purpose and not expended shall immediately revert to the state general fund.

(c) Failure on the part of the state to participate in the school lunch program does not invalidate any appropriation made or school lunch program carried on by a school corporation by means of gifts or money ~~raised by tax levy under this chapter.~~ **appropriated from state tuition support distributions received by the school corporation.**

SECTION 469. IC 20-26-11-9, AS AMENDED BY P.L.145-2006, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to each student:

(1) described in section 8(a) of this chapter;

(2) who is placed in a home or facility in Indiana that is outside the school corporation where the student has legal settlement; and

(3) for which the state is not obligated to pay transfer tuition.

(b) Not later than ten (10) days after the department of child services ~~or a county office of family and children~~ places or changes the placement of a student, the department of child services ~~or the county office of family and children~~ that placed the student shall notify the school corporation where the student has legal settlement and the school corporation where the student will attend school of the placement or change of placement. Before June 30 of each year, a county that places a student in a home or facility shall notify the school corporation where a student has legal settlement and the school corporation in which a student will attend school if a student's placement will continue for the ensuing school year. The notifications required under this subsection must be made by:

(1) ~~the county office (as defined in IC 12-7-2-45) if the county office or~~ the department of child services, **if the department of child services** placed or consented to the placement of the student; or

(2) if subdivision (1) does not apply, the court or other agency making the placement.

SECTION 470. IC 20-26-11-12, AS AMENDED BY P.L.145-2006,

SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) If a student is transferred under section 5 of this chapter from a school corporation in Indiana to a public school corporation in another state, the transferor corporation shall pay the transferee corporation the full tuition fee charged by the transferee corporation. However, the amount of the full tuition fee may not exceed the amount charged by the transferor corporation for the same class of school, or if the school does not have the same classification, the amount may not exceed the amount charged by the geographically nearest school corporation in Indiana that has the same classification.

(b) If a child is:

(1) placed by ~~a court order~~ **or with the consent of the department of child services** in an out-of-state institution or other facility; and

(2) provided all educational programs and services by a public school corporation in the state where the child is placed, whether at the facility, the public school, or another location;

the ~~county office of family and children for the county placing the child~~ **department of child services** shall pay ~~from the county family and children's fund~~ to the public school corporation in which the child is enrolled, the amount of transfer tuition specified in subsection (c).

(c) The transfer tuition for which ~~a county office~~ **the department of child services** is obligated under subsection (b) is equal to the following:

(1) The amount under a written agreement among the ~~county office,~~ **department of child services,** the institution or other facility, and the governing body of the public school corporation in the other state that specifies the amount and method of computing transfer tuition.

(2) The full tuition fee charged by the transferee corporation, if subdivision (1) does not apply. However, the amount of the full tuition fee must not exceed the amount charged by the transferor corporation for the same class of school, or if the school does not have the same classification, the amount must not exceed the amount charged by the geographically nearest school corporation in Indiana that has the same classification.

(d) If a child is:

(1) placed by ~~a court order~~ **or with the consent of the department of child services** in an out-of-state institution or other facility; and

(2) provided:

(A) onsite educational programs and services either through the facility's employees or by contract with another person or organization that is not a public school corporation; or

(B) educational programs and services by a nonpublic school; the ~~county office of family and children for the county placing the child~~ **department of child services** shall pay ~~from the county family and children's fund,~~ in an amount and in the manner specified in a written agreement between the ~~county office~~ **department of child services** and the institution or other facility.

(e) ~~An agreement described in subsection (c) or (d) is subject to the approval of the director of the department of child services. However,~~ For purposes of IC 4-13-2, ~~the~~ **an** agreement **described in subsection (c) or (d)** shall not be treated as a contract.

SECTION 471. IC 20-26-11-13, AS AMENDED BY P.L.234-2007, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. (a) As used in this section, the following terms have the following meanings:

(1) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school or junior high school, high school, and special schools or classes, such as schools or classes for special education, career and technical education, or career education.

(2) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized education program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

(3) "Student enrollment" means the following:

(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the state board.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the state board.

However, a kindergarten student shall be counted under clauses (A) and (B) as one-half (1/2) student. The state board may select a different date for counts under this subdivision. However, the same

date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 6 of this chapter, transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's ADM for a school year, allocate to the transfer student a proportionate share of the following general fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the school year ends:

(A) State tuition support distributions.

(B) Property tax levies **under IC 20-45-7 and IC 20-45-8.**

(C) Excise tax revenue (as defined in IC 20-43-1-12) received for deposit in the calendar year in which the school year begins.

(D) Allocations to the transferee school under IC 6-3.5.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana ~~under a court order,~~ **by or with the approval of the department of child services,** the institution or facility shall charge the ~~county office of the county of the student's legal settlement under IC 12-19-7~~ **department of child services** for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per student cost.

(c) Operating costs shall be determined for each class of school where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its general fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

(1) capital outlay;

(2) debt service;

(3) costs of transportation;

(4) salaries of board members;

(5) contracted service for legal expenses; and

(6) any expenditure that is made ~~out of the general fund~~ from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

(1) the cost of the special equipment; divided by

(2) the product of:

(A) the useful life of the special equipment, as determined under the rules adopted by the state board; multiplied by

(B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the student enrollment of each class in the transferee corporation compared with the total student enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

(1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by

(2) the student enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of student attendance, the transfer tuition shall be calculated by the part of the school year for which the transferred student is enrolled. A school year of student attendance consists of the number of days school is in session for student attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence, the student has been excluded or expelled from school for the balance of the school year or for an indefinite period, or the student has been confirmed to have withdrawn from school. The transferor and the transferee corporation may enter into written agreements concerning the amount of transfer tuition due in any school year. If an agreement cannot be reached, the amount shall be determined by the state board, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in subsection

(b) STEP TWO to a transfer student by dividing:

(1) the total amount of revenues received; by

(2) the ADM of the transferee school for the school year that ends in the calendar year in which the revenues are received.

However, for state tuition support distributions or any other state distribution computed using less than the total ADM of the transferee school, the transferee school shall allocate the revenues to the transfer student by dividing the revenues that the transferee school is eligible to receive in a calendar year by the student count used to compute the state distribution.

(h) Instead of the payments provided in subsection (b), the transferor corporation or state owing transfer tuition may enter into a long term contract with the transferee corporation governing the transfer of students. The contract may:

(1) be entered into for a period of not more than five (5) years with an option to renew;

(2) specify a maximum number of students to be transferred; and

(3) fix a method for determining the amount of transfer tuition and the time of payment, which may be different from that provided in section 14 of this chapter.

(i) A school corporation may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may:

(1) be for one (1) year or longer; and

(2) fix a method for determining the amount of transfer tuition or time of payment that is different from the method, amount, or time of payment that is provided in this section or section 14 of this chapter.

A school corporation may not transfer a student under this section without the prior approval of the child's parent.

~~(j) If a school corporation experiences a net financial impact with regard to transfer tuition that is negative for a particular school year as described in IC 20-45-6-8, the school corporation may appeal for an excessive levy as provided under IC 20-45-6-8.~~

SECTION 472. IC 20-26-11-17, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 17. (a) Each year before the date specified in the rules adopted by the state board, a school corporation shall report the information specified in subsection (b) for each student:

(1) for whom tuition support is paid by another school corporation;

(2) for whom tuition support is paid by the state; and

(3) who is enrolled in the school corporation but has the equivalent of a legal settlement in another state or country;

~~to the county office (as defined in IC 12-7-2-45) for the county in which the principal office of the school corporation is located and~~ to the department.

(b) Each school corporation shall provide the following information for each school year for each category of student described in subsection (a):

(1) The amount of tuition support and other support received for the students described in subsection (a).

(2) The operating expenses, as determined under section 13 of this chapter, incurred for the students described in subsection (a).

(3) Special equipment expenditures that are directly related to educating students described in subsection (a).

(4) The number of transfer students described in subsection (a).

(5) Any other information required under the rules adopted by the state board after consultation with the office of the secretary of family and social services.

(c) The information required under this section shall be reported in the format and on the forms specified by the state board.

(d) Not later than November 30 of each year the department shall compile the information required from school corporations under this section and submit the compiled information in the form specified by the office of the secretary of family and social services to the office of the secretary of family and social services.

~~(e) Not later than November 30 of each year each county office shall submit the following information to the office of the secretary of family and social services for each child who is described in IC 12-19-7-1(1) and is placed in another state or is a student in a school outside the school corporation where the child has legal settlement:~~

~~(1) The name of the child.~~

~~(2) The name of the school corporation where the child has legal settlement.~~

~~(3) The last known address of the custodial parent or guardian of the child.~~

~~(4) Any other information required by the office of the secretary of family and social services.~~

~~(f)~~ **(e)** Not later than December 31 of each year, the office of the secretary of family and social services shall submit a report to the members of the budget committee and the executive director of the

legislative services agency that compiles and analyzes the information required from school corporations under this section. The report must identify the types of state and local funding changes that are needed to provide adequate state and local money to educate transfer students. A report submitted under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

SECTION 473. IC 20-26-11-23, AS AMENDED BY P.L.2-2006, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 23. (a) If a transfer is ordered to commence in a school year, where the transferor corporation has net additional costs over savings (on account of any transfer ordered) allocable to the calendar year in which the school year begins, and where the transferee corporation does not have budgeted funds for the net additional costs, the net additional costs may be recovered by one (1) or more of the following methods in addition to any other methods provided by applicable law:

(1) An emergency loan made under IC 20-48-1-7 to be paid, out of the debt service levy and fund, or a loan from any state fund made available for the net additional costs.

(2) An advance in the calendar year of state funds, which would otherwise become payable to the transferee corporation after such calendar year under law.

(3) A grant or grants in the calendar year from any funds of the state made available for the net additional costs.

(b) The net additional costs must be certified by the department of local government finance, and any grant shall be made solely after affirmative recommendation of the school property tax control board. Repayment of any advance or loan from the state shall be made ~~in accordance with IC 20-45-6-3. The use of any of the methods in this section does not subject the transferor corporation to IC 20-45-6-5 or IC 20-45-6-6.~~ **from state tuition support distributions or other money available to the school corporation.**

SECTION 474. IC 20-31-11-6, AS AMENDED BY P.L.2-2006, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) A public school that receives a monetary award under this chapter may expend that award for any educational purpose for that school, except:

(1) athletics;

(2) salaries for school personnel; or

(3) salary bonuses for school personnel.

(b) A monetary award may not be used to determine

~~(1) the maximum permissible tuition support levy under IC 20-45-3; or~~

~~(2)~~ the state tuition support under IC 20-43

of the school corporation in which the school receiving the monetary award is located.

SECTION 475. IC 20-33-2-29, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 29. (a) It is unlawful for a person operating or responsible for:

(1) an educational;

(2) a correctional;

(3) a charitable; or

(4) a benevolent institution or training school;

to fail to ensure that a child under the person's authority attends school as required under this chapter. Each day of violation of this section constitutes a separate offense.

(b) If a child is placed in an institution or facility ~~under a court order,~~ **by or with the approval of the department of child services,** the institution or facility shall charge the ~~county office of family and children of the county of the child's legal settlement under IC 12-19-7~~ **department of child services** for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per child cost.

SECTION 476. IC 20-40-4-4, AS ADDED BY P.L.2-2006, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. **(a)** The fund consists of the ~~following:~~

~~(1) The levy.~~

~~(2)~~ distributions to the school corporation from the state under IC 20-20-34.

(b) A school corporation may not impose a special education preschool property tax levy after December 31, 2008.

SECTION 477. IC 20-40-8-1, AS ADDED BY P.L.2-2006, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. As used in this chapter, "calendar year distribution" means the sum of the following:

(1) A school corporation's:

(A) state tuition support; and

(B) maximum permissible tuition support levy (as defined in IC 20-45-1-15 **before its repeal)**;

for the calendar year.

(2) The school corporation's excise tax revenue (as defined in IC 20-43-1-12) for the immediately preceding calendar year.

SECTION 478. IC 20-40-8-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 21. Money in the fund may be transferred to another fund to replace property tax revenues lost to the fund as a result of the granting of circuit breaker credits under IC 6-1.1-20.6. A school corporation shall make a transfer of money under this section if the fund experiencing a shortfall is a debt service fund and money is not transferred from any other fund to cover the shortfall. The amount transferred must be equal to the amount of the shortfall that is not replaced from other funds.**

SECTION 479. IC 20-40-12-6, AS ADDED BY P.L.2-2006, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. Subject to the approval of the commissioner of insurance, the governing body of the school corporation may:

(1) transfer to the fund an amount of money in

~~(A)~~ the general fund budget; ~~and~~

~~(B) the general fund tax levy and rate;~~

(2) transfer money from the general fund to the fund;

(3) appropriate money from the general fund for the fund; or

(4) transfer money from the capital projects fund to the fund, to the extent that money in the capital projects fund may be used for property or casualty insurance.

SECTION 480. IC 20-43-1-17, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 17. "Maximum permissible tuition support levy" ~~has~~ **refers to** the ~~meaning set forth in IC 20-45-1-15.~~ **maximum permissible tuition support levy that a school corporation was permitted to impose under IC 20-45-3-11 (before its repeal).**

SECTION 481. IC 20-43-2-1, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. The department shall distribute the amount appropriated by the general assembly for distribution as state tuition support in accordance with this article. If the appropriations for distribution as state tuition support are more than required under this article, ~~one-half (1/2) of~~ any excess shall revert to the state general fund. ~~and one-half (1/2) of any excess shall revert to the property tax replacement fund.~~ The appropriations for state tuition support shall be made each calendar year

under a schedule set by the budget agency and approved by the governor. However, the schedule must provide:

(1) for at least twelve (12) payments;

(2) that one (1) payment shall be made at least every forty (40) days; and

(3) the total of the payments in each calendar year must equal the amount required under this article.

SECTION 482. IC 20-43-2-2, AS AMENDED BY P.L.234-2007, SECTION 235, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The maximum state distribution for a calendar year for all school corporations **for the purposes described in section 3 of this chapter** is:

(1) three billion eight hundred twelve million five hundred thousand dollars ($3,812,500,000) in 2007;

(2) three billion nine hundred sixty million nine hundred thousand dollars ($3,960,900,000) in 2008; and

(3) ~~four~~ **six** billion ~~one~~ **five** hundred ~~nineteen~~ **nine** million ~~six hundred thousand~~ dollars ~~($4,119,600,000)~~ **($6,509,000,000)** in 2009.

SECTION 483. IC 20-43-3-1, AS AMENDED BY P.L.234-2007, SECTION 237, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. If a computation under this article results in a fraction and a rounding rule is not specified, the fraction shall be rounded as follows:

~~(1) All tax rates shall be computed by rounding the rate to the nearest one-hundredth of a cent ($0.0001).~~

~~(2)~~ **(1)** All calculations related to the complexity index shall be computed by rounding to the nearest ten thousandth (0.0001).

~~(3)~~ **(2)** All ~~tax levies and~~ tuition support distributions shall be computed by rounding the levy or tuition support distribution to the nearest dollar ($1) amount.

~~(4)~~ **(3)** The fraction calculated in IC 20-43-2-4 shall be computed by rounding to the nearest one millionth (0.000001).

~~(5)~~ **(4)** If a calculation is not covered by subdivision (1), (2), **or** (3), ~~or (4),~~ the result of the calculation shall be rounded to the nearest one hundredth (0.01).

SECTION 484. IC 20-43-3-3, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. Not later than January 15 each year, the department of local government finance shall certify to the department the amount of

each school corporation's excise tax revenue for the immediately preceding year. ~~In 2006, the department of local government finance shall certify to the department the amount of each school corporation's excise tax revenue for both 2004 and 2005.~~ The department may rely on the excise tax revenue amounts certified by the department of local government finance under this section in making calculations under this article. **This section expires July 1, 2009.**

SECTION 485. IC 20-43-3-4, AS AMENDED BY HEA 1137-2008, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) A school corporation's previous year revenue equals the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the sum of the following:

(A) The school corporation's basic tuition support for the year that precedes the current year.

(B) The school corporation's maximum permissible tuition support levy for ~~the~~ calendar year ~~that precedes the current year, made in determining the school corporation's adjusted tuition support levy for the calendar year.~~ **2008.**

(C) The school corporation's excise tax revenue for ~~the year that precedes the current year by two (2) years.~~ **calendar year 2007.**

STEP TWO: Subtract from the STEP ONE result an amount equal to the reduction in the school corporation's state tuition support under any combination of subsection (b), subsection (c), IC 20-10.1-2-1 (before its repeal), or IC 20-30-2-4.

(b) A school corporation's previous year revenue must be reduced if:

(1) the school corporation's state tuition support for special education or career and technical education is reduced as a result of a complaint being filed with the department after December 31, 1988, because the school program overstated the number of children enrolled in special education programs or career and technical education programs; and

(2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in state tuition support for special education and career and technical education because of the overstatement.

(c) **This section applies only to 2009.** A school corporation's previous year revenue must be reduced if an existing elementary or secondary

school located in the school corporation converts to a charter school under ~~IC 20-5.5-11 before July 1, 2005, or~~ IC 20-24-11. ~~after June 30, 2005.~~ The amount of the reduction equals the product of:

(1) the sum of the amounts distributed to the conversion charter school under ~~IC 20-5.5-7-3.5(c) and IC 20-5.5-7-3.5(d) before July 1, 2005, and~~ IC 20-24-7-3(c) and IC 20-24-7-3(d) ~~after June 30, 2005,~~ **(as effective December 31, 2008);** multiplied by

(2) two (2).

SECTION 486. IC 20-43-3-6, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For purposes of this section, "school corporation" does not include a charter school.

(b) Adjusted assessed valuation of any school corporation that is used in computing a school corporation's state tuition support for a calendar year must be the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34.

(c) The amount of the valuation described in subsection (b) must also be adjusted downward by the department of local government finance to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, the state superintendent shall prescribe adjustments in the distributions of state tuition support that subsequently become due to a school corporation affected by the delinquency. The adjustment must ensure that the school corporation will not have been unjustly enriched under P.L.382-1987(ss).

(d) The amount of the valuation described in subsection (b) must also be adjusted downward by the department of local government finance to the extent it consists of real or personal property described in ~~IC 6-1.1-17-0.5(b).~~ **IC 6-1.1-17-0.5.**

SECTION 487. IC 20-43-4-1, AS AMENDED BY HEA 1137-2008, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) An individual is an eligible pupil if the individual is a pupil enrolled in a school corporation and:

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the

responsibility to pay transfer tuition under IC 20-26-11 because the pupil is:

(A) transferred for education to another school corporation; **or**

(B) placed in an out-of-state institution or facility by or with the consent of the department of child services;

(3) the pupil is enrolled in a school corporation as a transfer student under IC 20-26-11-6 or entitled to be counted for ADM purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-26-11; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility or child care facility where the pupil was placed:

(i) by or with the consent of the department of child services;

(ii) by a court order;

(iii) by a child placing agency licensed by the department of child services;

(iv) by a parent or guardian under IC 20-26-11-8; or

(v) by or with the consent of the department under IC 20-35-6-2.

(b) For purposes of a career and technical education grant, an eligible pupil includes a student enrolled in a charter school.

SECTION 488. IC 20-43-6-3, AS AMENDED BY P.L.234-2007, SECTION 249, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) A school corporation's total regular program tuition support for a calendar year is the amount determined under the applicable provision of this section.

(b) This subsection applies to a school corporation that has transition to foundation revenue per adjusted ADM for a calendar year that is not equal to the school corporation's foundation amount for the calendar year. The school corporation's total regular program tuition support for a calendar year is equal to the school corporation's transition to foundation revenue for the calendar year.

(c) This subsection applies to a school corporation that has transition to foundation revenue per adjusted ADM for a calendar year that is equal

to the school corporation's foundation amount for the calendar year. The school corporation's total regular program tuition support for a calendar year is the sum of the following:

(1) The school corporation's foundation amount for the calendar year multiplied by the school corporation's adjusted ADM for the current year.

(2) The amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

~~(3) The part of the school corporation's maximum permissible tuition support levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility or reopening an existing facility during the preceding year.~~

SECTION 489. IC 20-43-6-5, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. A school corporation's basic tuition support for a calendar year is ~~the difference between:~~

~~(1)~~ **equal to** the school corporation's total regular program tuition support for the calendar year. ~~minus~~

~~(2) the school corporation's local contribution for the calendar year.~~

SECTION 490. IC 20-43-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 11.5. New Facility Adjustment

Sec. 1. (a) A school corporation may appeal to the department of local government finance under IC 6-1.1-19 for a new facility adjustment to increase the school corporation's tuition support distribution for the following year by the amount described in section 2 of this chapter.

(b) Upon the demonstration by the school corporation to the department of local government finance that an adjustment is necessary to pay increased costs to open:

(1) a new school facility; or

(2) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the department of local government finance may grant the appeal. If the department of local government finance grants an appeal, it shall

determine the amount of the new facility adjustment to be distributed to the school corporation under this chapter. In determining the amount of a new facility adjustment, the department of local government finance shall consider the extent to which a part of tuition support distributions offsets any increased costs described in subdivision (1) or (2).

Sec. 2. (a) If a school corporation's appeal under this chapter is granted, the department shall, subject to amounts appropriated, distribute to the school corporation the amount of the new facility adjustment approved by the department of local government finance.

(b) A new facility adjustment is in addition to the amount of the state tuition support distribution to which the school corporation is entitled under this article.

SECTION 491. IC 20-44-3-3, AS ADDED BY P.L.2-2006, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. ~~(a)~~ A school corporation's levy excess is valid.

~~(b) The general fund portion of a school corporation's levy excess may not be contested on the grounds that it exceeds the school corporation's maximum permissible tuition support levy limit for the applicable calendar year.~~

SECTION 492. IC 20-45-7-20, AS AMENDED BY P.L.224-2007, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) The county auditor shall compute the amount of the tax to be levied each year. Before August 2, the county auditor shall certify the amount to the county council.

(b) The tax rate shall be advertised and fixed by the county council in the same manner as other property tax rates. The tax rate shall be subject to all applicable law relating to review by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ and the department of local government finance.

(c) The department of local government finance shall certify the tax rate at the time it certifies the other county tax rates.

(d) The department of local government finance shall raise or lower the tax rate to the tax rate provided in this chapter, regardless of whether the certified tax rate is below or above the tax rate advertised by the county.

SECTION 493. IC 20-45-8-20, AS AMENDED BY P.L.224-2007, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. The tax levy is subject to all laws concerning review by the county board of tax adjustment ~~(before January 1, 2009) or~~

~~the county board of tax and capital projects review (after December 31, 2008)~~ and the department of local government finance.

SECTION 494. IC 20-46-1-7, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. (a) This section applies to a school corporation that added an amount to the school corporation's base tax levy before 2002 as the result of the approval of an excessive tax levy by the majority of individuals voting in a referendum held in the area served by the school corporation under IC 6-1.1-19-4.5 (before its repeal).

(b) A school corporation may adopt a resolution before September 21, 2005, to transfer the power of the school corporation to levy the amount described in subsection (a) from the school corporation's general fund to the school corporation's fund. A school corporation that adopts a resolution under this section shall, as soon as practicable after adopting the resolution, send a certified copy of the resolution to the department of local government finance and the county auditor. A school corporation that adopts a resolution under this section may, for property taxes first due and payable after 2005, levy an additional amount for the fund that does not exceed the amount of the excessive tax levy added to the school corporation's base tax levy before 2002.

(c) The power of the school corporation to impose the levy transferred to the fund under this section expires December 31, 2012, unless:

(1) the school corporation adopts a resolution to reimpose or extend the levy; and

(2) the levy is approved, before January 1, 2013, by a majority of the individuals who vote in a referendum that is conducted in accordance with the requirements in this chapter.

As soon as practicable after adopting the resolution under subdivision (1), the school corporation shall send a certified copy of the resolution to the county auditor and the department of local government finance. Upon receipt of the certified resolution, the tax control board shall proceed in the same manner as the tax control board would for any other levy being reimposed or extended under this chapter. However, if requested by the school corporation in the resolution adopted under subdivision (1), the question of reimposing or extending a levy transferred to the fund under this section may be combined with a question presented to the voters to reimpose or extend a levy initially imposed after 2001. A levy reimposed or extended under this subsection shall be treated for all purposes as a levy reimposed or extended under IC 6-1.1-19-4.5(c) (before its repeal) and this chapter, after June 30, 2006.

(d) The school corporation's levy under this section may not be considered in the determination of the school corporation's state tuition support **distribution** under IC 20-43 or the determination of ~~the school corporation's maximum permissible tuition support levy under IC 20-45-3.~~ **any other property tax levy imposed by the school corporation.**

SECTION 495. IC 20-46-1-8, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. ~~(a) This section applies to a school corporation that includes a request for a levy under this chapter in an emergency appeal under IC 6-1.1-19 and IC 20-45-6-2.~~

~~(b) In addition to, or instead of, any recommendation that the tax control board may make in an appeal, the tax control board may recommend that the appellant school corporation be permitted to make a levy for the ensuing calendar year under this chapter.~~ **(a) Subject to this chapter, the governing body of a school corporation may adopt a resolution to place a referendum under this chapter on the ballot for either of the following purposes:**

(1) The governing body of the school corporation determines that it cannot, in a calendar year, carry out its public educational duty unless it imposes a referendum tax levy under this chapter.

(2) The governing body of the school corporation determines that a referendum tax levy under this chapter should be imposed to replace property tax revenue that the school corporation will not receive because of the application of the credit under IC 6-1.1-20.6.

(b) The governing body of the school corporation shall certify a copy of the resolution to the county fiscal body of each county in which the school corporation is located.

SECTION 496. IC 20-46-1-9, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A ~~tax control board recommendation~~ **referendum tax levy** under this chapter may be put into effect only if

~~(1)~~ a majority of the individuals who vote in a referendum that is conducted in accordance with this section and sections 10 through 19 of this chapter approves the appellant school corporation's making a levy for the ensuing calendar year.

~~(2) the department of local government finance approves the recommendation in writing; and~~

~~(3) the appellant school corporation requests that the tax control board take the steps necessary to cause a referendum to be~~

~~conducted.~~

SECTION 497. IC 20-46-1-12, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. **If a school corporation adopts a resolution under section 8 of this chapter,** the ~~tax control board shall act~~ **county fiscal body must** under IC 3-10-9-3 ~~to~~ certify the question to be voted on at the referendum to the county election board of each county in which any part of the appellant school corporation is located.

SECTION 498. IC 20-46-1-13, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Each county clerk shall, upon receiving the question certified by the ~~tax control board~~ **county fiscal body** under this chapter, call a meeting of the county election board to make arrangements for the referendum.

SECTION 499. IC 20-46-1-14, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The referendum shall be held in the next primary or general election in which all the registered voters who are residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the ~~tax control board,~~ **county fiscal body,** the referendum shall be held at a special election to be conducted not less than ninety (90) days after the question is certified to the circuit court clerk or clerks by the ~~tax control board.~~ **county fiscal body.**

(b) The school corporation shall advise each affected county election board of the date on which the school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the school corporation.

(c) The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum.

(d) If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this section and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10.

(e) Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question

that is to be voted upon at the referendum to be published in accordance with IC 5-3-1.

(f) If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all the costs of holding the referendum.

SECTION 500. IC 20-46-1-15, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. Each county election board shall cause:

(1) the question certified to the circuit court clerk by the ~~tax control board~~ **county fiscal body** to be placed on the ballot in the form prescribed by IC 3-10-9-4; and

(2) an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

SECTION 501. IC 20-46-1-17, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the ~~tax control board.~~ **county fiscal body.** Upon receiving the certification of all the votes cast in the referendum, the ~~tax control board~~ **county fiscal body** shall promptly certify the result of the referendum to the department of local government finance. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question:

(1) the ~~department of local government finance, upon being notified by the tax control board of the result of the referendum,~~ **county fiscal body** shall promptly notify the school corporation that the school corporation is authorized to collect, for the calendar year that next follows the calendar year in which the referendum is held, a levy not greater than the amount approved in the referendum;

(2) the levy may be imposed for the number of calendar years approved by the voters following the referendum for the school corporation in which the referendum is held; and

(3) the school corporation shall establish a fund under IC 20-40-3-1.

SECTION 502. IC 20-46-1-18, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18. **(a)** A school corporation's levy may not be considered

in the determination of the school corporation's state tuition support **distribution** under IC 20-43 or the determination of ~~the school corporation's maximum permissible tuition support levy under IC 20-45-3.~~ **any other property tax levy imposed by the school corporation.**

SECTION 503. IC 20-46-1-19, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question:

(1) the school corporation may not make any levy for its ~~general~~ **referendum tax levy** fund; ~~other than a levy permitted under IC 20-45;~~ and

(2) another referendum under this section may not be held for one (1) year after the date of the referendum.

SECTION 504. IC 20-46-5-6, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section does not apply to a school corporation located in South Bend, unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(b) Before a governing body may collect property taxes for the fund in a particular calendar year, the governing body must, after January 1 and not later than September 20 of the immediately preceding year:

(1) conduct a public hearing on; and

(2) pass a resolution to adopt;

a plan.

(c) This section expires January 1, 2009.

SECTION 505. IC 20-46-5-7, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **Except as provided in subsection (b),** this section applies only to a school corporation located in South Bend.

(b) After December 31, 2009, this section applies to all school corporations.

~~(b)~~ **(c) This subsection expires January 1, 2010.** This section does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

~~(c)~~ **(d)** Before the governing body of the school corporation may collect property taxes for the fund in a particular calendar year, the governing body must, after January 1 and on or before February 1 of the immediately preceding year:

(1) conduct a public hearing on; and

(2) pass a resolution to adopt;

a plan.

SECTION 506. IC 20-46-5-8, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The department of local government finance shall prescribe the format of the plan.

(b) A plan must apply to at least the ~~ten (10)~~ **twelve (12)** budget years immediately following the year the plan is adopted.

(c) A plan must at least include the following:

(1) An estimate for each year to which it applies of the nature and amount of proposed expenditures from the fund.

(2) A presumption that the minimum useful life of a school bus is not less than ~~ten (10)~~ **twelve (12)** years.

(3) An identification of:

(A) the source of all revenue to be dedicated to the proposed expenditures in the upcoming budget year; and

(B) the amount of property taxes to be collected in that year and the unexpended balance to be retained in the fund for expenditures proposed for a later year.

(4) If the school corporation is seeking to:

(A) acquire; or

(B) contract for transportation services that will provide;

additional school buses or school buses with a larger seating capacity as compared with the number and type of school buses from the prior school year, evidence of a demand for increased transportation services within the school corporation. Clause (B) does not apply if contracted transportation services are not paid from the fund.

(5) If the school corporation is seeking to:

(A) replace an existing school bus earlier than ~~ten (10)~~ **twelve (12)** years after the existing school bus was originally acquired; or

(B) require a contractor to replace a school bus;

evidence that the need exists for the replacement of the school bus. Clause (B) does not apply if contracted transportation services are not paid from the fund.

(6) Evidence that the school corporation that seeks to acquire additional school buses under this section is acquiring or contracting for the school buses only for the purposes specified in subdivision (4) or for replacement purposes.

SECTION 507. IC 20-46-6-8, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section does not apply to a school corporation that is located in South Bend, unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(b) Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must:

(1) after January 1; and

(2) not later than September 20;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

(c) This section expires January 1, 2009.

SECTION 508. IC 20-46-6-9, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **Except as provided in subsection (b),** this section applies only to a school corporation that is located in South Bend.

(b) After December 31, 2009, this section applies to all school corporations.

~~(b)~~ **(c) This subsection expires January 1, 2010.** This ~~subsection~~ **section** does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

~~(c)~~ **(d)** Before the governing body of the school corporation may collect property taxes for a fund in a particular year, the governing body must:

(1) after January 1; and

(2) before February 2;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

SECTION 509. IC 20-46-7-8, AS AMENDED BY P.L.224-2007, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a) This section does not apply to the following:**

(1) Bonds or lease rental agreements for which a school corporation:

(A) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(B) in the case of bonds or lease rental agreements not subject

to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds or lease rental agreement after June 30, 2008.

(2) Repayment from the debt service fund of loans made after June 30, 2008, for the purchase of school buses under IC 20-27-4-5.

~~(a)~~ **(b)** A school corporation must file a petition requesting approval from the department of local government finance to:

(1) incur bond indebtedness;

(2) enter into a lease rental agreement; or

(3) repay from the debt service fund loans made for the purchase of school buses under IC 20-27-4-5;

not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2), unless the school corporation demonstrates that a longer period is reasonable in light of the school corporation's facts and circumstances.

~~(b)~~ **(c)** A school corporation must obtain approval from the department of local government finance before the school corporation may:

(1) incur the indebtedness;

(2) enter into the lease agreement; or

(3) repay the school bus purchase loan.

~~(c)~~ **(d)** This restriction does not apply to property taxes that a school corporation levies to pay or fund bond or lease rental indebtedness created or incurred before July 1, 1974. In addition, this restriction does not apply to a lease agreement or a purchase agreement entered into between a school corporation and the Indiana bond bank for the lease or purchase of a school bus under IC 5-1.5-4-1(a)(5), if the lease agreement or purchase agreement conforms with the school corporation's ten (10) year school bus replacement plan approved by the department of local government finance under IC 21-2-11.5-3.1 **(before its repeal) or IC 20-46-5.**

~~(d)~~ **(e)** This section does not apply to

~~(1)~~ school bus purchase loans made by a school corporation that will be repaid solely from the general fund of the school corporation. ~~or (2) bonded indebtedness incurred, or lease rental agreements entered into for capital projects approved by a county board of tax and capital projects review under IC 6-1.1-29.5 after December 31, 2008.~~

SECTION 510. IC 20-46-7-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) Notwithstanding any other provision, review by the department of local government finance and approval by the**

department of local government finance are not required before a school corporation may issue or enter into bonds, a lease, or any other obligation, if the school corporation:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of bonds, leases, or other obligations not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds, lease rental agreement, or other obligations after June 30, 2008.

(b) A school corporation is not required to obtain the approval of the department of local government finance before the school corporation may repay from the debt service fund any loans made after June 30, 2008, for the purchase of school buses under IC 20-27-4-5.

(c) This subsection applies after June 30, 2008. Notwithstanding any other provision, review by the department of local government finance and approval by the department of local government finance are not required before a school corporation may construct, alter, or repair a capital project.

SECTION 511. IC 20-46-7-9, AS AMENDED BY P.L.224-2007, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) This section applies only to an obligation ~~described in~~ **subject to** section 8 of this chapter. This section does not apply to bonded indebtedness ~~incurred~~ or lease rental agreements ~~entered into for capital projects approved by a county board of tax and capital projects review under IC 6-1.1-29.5 after December 31, 2008.~~ **for which a school corporation:**

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of bonds or lease rental agreements not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds or lease rental agreement after June 30, 2008.

(b) The department of local government finance may:

(1) approve;

(2) disapprove; or

(3) modify then approve;

a school corporation's proposed lease rental agreement, bond issue, or

school bus purchase loan. Before the department of local government finance approves or disapproves a proposed lease rental agreement, bond issue, or school bus purchase loan, the department of local government finance may seek the recommendation of the tax control board.

(c) The department of local government finance shall render a decision not more than three (3) months after the date the department of local government finance receives a request for approval under section 8 of this chapter. However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department of local government finance sends notice of the extension to the executive officer of the school corporation.

SECTION 512. IC 20-46-7-10, AS AMENDED BY P.L.224-2007, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) This section applies only to an obligation described in section 8 of this chapter. This section does not apply to bonded indebtedness ~~incurred~~ or lease rental agreements ~~entered into for capital projects approved by a county board of tax and capital projects review under IC 6-1.1-29.5 after December 31, 2008.~~ **for which the school corporation:**

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of bonds or lease rental agreements not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds or lease rental agreement after June 30, 2008.

(b) The department of local government finance may not approve a school corporation's proposed lease rental agreement or bond issue to finance the construction of additional classrooms unless the school corporation first:

(1) establishes that additional classroom space is necessary; and

(2) conducts a feasibility study, holds public hearings, and hears public testimony on using a twelve (12) month school term (instead of the nine (9) month school term (as defined in IC 20-30-2-7)) rather than expanding classroom space.

(c) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department of local government finance enters its order

under this section.

SECTION 513. IC 20-46-7-11, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a)** The department of local government finance in determining whether to approve or disapprove a school building construction project and the tax control board in determining whether to recommend approval or disapproval of a school building construction project shall consider the following factors:

(1) The current and proposed square footage of school building space per student.

(2) Enrollment patterns within the school corporation.

(3) The age and condition of the current school facilities.

(4) The cost per square foot of the school building construction project.

(5) The effect that completion of the school building construction project would have on the school corporation's tax rate.

(6) Any other pertinent matter.

(b) The authority of the department of local government finance to determine whether to approve or disapprove a school building construction project does not after June 30, 2008, include the authority to review or approve the financing of the school building construction project.

SECTION 514. IC 20-46-7-12, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. ~~The department of local government finance in determining whether to approve or disapprove a school building construction project and the tax control board in determining whether to recommend approval or disapproval of~~ **Except as provided by IC 5-1-14-10, the maximum term or repayment period for bonds issued by a school corporation for** a school building construction project may not ~~approve or recommend the approval of a project that is financed through the issuance of bonds if the bonds mature more than twenty-five (25)~~ **exceed twenty (20)** years after the date of the issuance of the bonds.

SECTION 515. IC 20-47-2-13, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) If the execution of the lease as originally agreed upon or as modified by agreement is authorized by the governing body or bodies of the school corporation or corporations, the governing body shall give notice of the signing of the lease by publication one (1) time in:

(1) a newspaper of general circulation printed in the English

language in the school corporation;

(2) a newspaper described in subdivision (1) in each school corporation if the proposed lease is a joint lease; or

(3) if no such newspaper is published in the school corporation, in any newspaper of general circulation published in the county.

(b) **This subsection does not apply to a lease for which a school corporation after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5, or, in the case of a lease not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008.** Within thirty (30) days after the publication of notice under subsection (a), fifty (50) or more taxpayers in the school corporation or corporations who:

(1) will be affected by the proposed lease; and

(2) are of the opinion that:

(A) necessity does not exist for the execution of the lease; or

(B) the proposed rental provided for in the lease is not a fair and reasonable rental;

may file a petition in the office of the county auditor of the county in which the school corporation or corporations are located. The petition must set forth the taxpayers' objections to the lease and facts showing that the execution of the lease is unnecessary or unwise or that the lease rental is not fair and reasonable, as the case may be.

(c) Upon the filing of a petition under subsection (b), the county auditor shall immediately certify a copy of the petition, together with any other data that is necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and data, if any, the department of local government finance shall fix a time, date, and place for the hearing of the matter, which may not be less than five (5) nor more than thirty (30) days thereafter. The department of local government finance shall

(1) conduct the hearing in the school corporation or corporations, or in the county where the school corporation or corporations are located; and

(2) give notice of the hearing to the members of the governing body or bodies of the school corporation or corporations and to the first fifty (50) taxpayers who signed the petition under subsection (b) by a letter signed by the commissioner or deputy commissioner of the department of local government finance and enclosed with full prepaid postage addressed to the taxpayer petitioners at their usual

place of residence, at least five (5) days before the hearing.

The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the rental is fair and reasonable, is final.

SECTION 516. IC 20-47-2-14, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be instituted at any time later than:

(1) thirty (30) days after publication of notice of the execution of the lease by the governing body or bodies of the school corporation or corporations; or

(2) if an appeal **is allowed under section 13 of this chapter and** has been taken to the department of local government finance, thirty (30) days after the decision of the department of local government finance.

SECTION 517. IC 20-47-3-5, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in ~~subsection~~ **subsections** (d) **and (e),** a lease must provide that the school corporation or corporations have an option to:

(1) renew the lease for a further term on like conditions; and

(2) purchase the property covered by the lease;

with the terms and conditions of the purchase to be specified in the lease, subject to the approval of the department of local government finance.

(b) If the option to purchase the property covered by the lease is exercised, the school corporation or corporations, to procure funds to pay the purchase price, may issue and sell bonds under the provisions of the general statute governing the issue and sale of bonds of the school corporation or corporations. The purchase price may not be more than the purchase price set forth in the lease plus:

(1) two percent (2%) of the purchase price as prepayment penalty for purchase within the first five (5) years of the lease term; or

(2) one percent (1%) of the purchase price as prepayment penalty for purchase in the second five (5) years of the lease term;

and thereafter the purchase shall be without prepayment penalty.

(c) However:

(1) if the school corporation or corporations have not exercised an option to purchase the property covered by the lease at the expiration of the lease; and

(2) upon the full discharge and performance by the school corporation or corporations of their obligations under the lease;

the property covered by the lease becomes the absolute property of the school corporation or corporations, and the lessor corporation shall execute proper instruments conveying to the school corporation or corporations good and merchantable title to that property.

(d) The following provisions apply to a school corporation that is located in Dubois County and enters into a lease with a religious organization or the organization's agent as authorized under section 4 of this chapter:

(1) The lease is not required to include on behalf of the school corporation an option to purchase the property covered by the lease.

(2) The lease must include an option to renew the lease.

(3) The property covered by the lease is not required to become the absolute property of the school corporation as provided in subsection (c).

(e) In the case of a lease for which a school corporation:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of a lease not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008;

the terms and conditions of the purchase that are specified in the lease are not subject to the approval of the department of local government finance.

SECTION 518. IC 20-47-3-8, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a) Except as provided in subsection (b),** a school corporation or corporations may, in anticipation of the acquisition of a site and the construction and erection of a school building or buildings, and, subject to the approval of the department of local government finance, enter into a lease with a lessor corporation before the actual acquisition of the site and the construction and erection of the building or buildings. However, the lease entered into by the school corporation or school corporations may not provide for the payment of any lease rental by the lessee or lessees until the building or buildings are ready for occupancy, at which time the stipulated lease rental may begin. The lessor corporation shall furnish a bond to the approval of the lessee or lessees conditioned on the final completion of the building or buildings within a period not to

exceed one (1) year from the date of the execution of the lease, unavoidable delays excepted.

(b) In the case of a lease for which a school corporation:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of a lease not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008;

the approval of the department of local government finance is not required.

SECTION 519. IC 20-47-3-11, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) If the execution of the lease as originally agreed upon or as modified by agreement is authorized by the governing body or bodies of the school corporation or corporations, the governing body shall give notice of the signing of the lease by publication one (1) time in:

(1) a newspaper of general circulation printed in the English language in the school corporation;

(2) a newspaper described in subdivision (1) in each school corporation if the proposed lease is a joint lease; or

(3) if no such newspaper is published in the school corporation, in any newspaper of general circulation published in the county.

(b) **This subsection does not apply to leases for which a school corporation after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5, or, in the case of leases not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008.** Within thirty (30) days after the publication of notice under subsection (a), ten (10) or more taxpayers in the school corporation or corporations who:

(1) will be affected by the proposed lease; and

(2) are of the opinion that:

(A) no necessity exists for the execution of the lease; or

(B) the proposed rental provided for in the lease is not a fair and reasonable rental;

may file a petition in the office of the county auditor of the county in which the school corporation or corporations are located. The petition must set forth the taxpayers' objections to the lease and facts showing that the execution of the lease is unnecessary or unwise, or that the lease rental

is not fair and reasonable, as the case may be.

(c) Upon the filing of a petition under subsection (b), the county auditor shall immediately certify a copy of the petition and any other data that is necessary to present the questions involved to the department of local government finance. Upon receipt of the certified petition and data, if any, the department of local government finance shall fix a date, time, and place for the hearing of the matter, which may not be less than five (5) nor more than thirty (30) days after receipt of the petition and data, if any. The department of local government finance shall:

(1) conduct the hearing in the school corporation or corporations or in the county where the school corporation or corporations are located; and

(2) give notice of the hearing to the members of the governing body or bodies of the school corporation or corporations and to the first ten (10) taxpayer petitioners upon the petition by a letter signed by the commissioner or deputy commissioner of the department of local government finance, and enclosed with full prepaid postage addressed to the taxpayer petitioners at their usual place of residence, at least five (5) days before the hearing.

The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease, and as to whether the rental is fair and reasonable, is final.

SECTION 520. IC 20-47-3-12, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be instituted at any time later than:

(1) thirty (30) days after publication of notice of the execution of the lease by the governing body or bodies of the school corporation or corporations; or

(2) if an appeal **is allowed under section 11 of this chapter and** has been taken to the department of local government finance, thirty (30) days after the decision of the department of local government finance.

SECTION 521. IC 20-47-4-6, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A lessor corporation may acquire and finance an existing school building, other than as provided in section 5 of this chapter, and lease the existing school building to a school corporation. A school corporation shall comply with:

(1) IC 20-47-2 or IC 20-47-3; ~~and~~

(2) the petition and remonstrance provisions under IC 6-1.1-20 **(if required); and**

(3) the local public question provisions under IC 6-1.1-20 (if required).

(b) A lease made under this section may provide for the payment of lease rentals by the school corporation for the use of the existing school building.

(c) Lease rental payments made under the lease do not constitute a debt of the school corporation for purposes of the Constitution of the State of Indiana.

(d) A new school building may be substituted for the existing school building under the lease if the substitution was included in the notices given under IC 20-47-2, IC 20-47-3, and IC 6-1.1-20. A new school building must be substituted for the existing school building upon completion of the new school building.

SECTION 522. IC 20-48-1-4, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** Bonds issued by a school corporation must be sold at:

(1) not less than par value;

(2) public sale as provided by IC 5-1-11; and

(3) any rate or rates of interest determined by the bidding.

(b) This subsection does not apply to bonds for which a school corporation:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of bonds not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds after June 30, 2008.

If the net interest cost exceeds eight percent (8%) per year, the bonds must not be issued until the issuance is approved by the department of local government finance.

SECTION 523. IC 20-48-1-8, AS AMENDED BY P.L.219-2007, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The provisions of all general statutes and rules relating to:

(1) filing petitions requesting the issuance of bonds and giving notice of the issuance of bonds;

(2) giving notice of determination to issue bonds;

(3) giving notice of a hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appear and be heard on the proposed appropriation;

~~(4) the approval of the appropriation by the department of local government finance;~~ and

~~(5)~~ **(4)** the right of taxpayers and voters to remonstrate against **or vote on, as applicable,** the issuance of bonds;

apply to proceedings for the issuance of bonds and the making of an emergency loan under this article and IC 20-26-1 through IC 20-26-5. An action to contest the validity of the bonds or emergency loans may not be brought later than five (5) days after the acceptance of a bid for the sale of the bonds.

SECTION 524. IC 20-48-1-9, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) If the governing body of a school corporation finds and declares that an emergency exists to borrow money with which to pay current expenses from a particular fund before the receipt of revenues from taxes levied or state tuition support distributions for the fund, the governing body may issue warrants in anticipation of the receipt of the revenues.

(b) The principal of warrants issued under subsection (a) is payable solely from the fund for which the taxes are levied or from the school corporation's general fund in the case of anticipated state tuition support distributions. However, the interest on the warrants may be paid from the debt service fund, from the fund for which the taxes are levied, or the general fund in the case of anticipated state tuition support distributions.

(c) The amount of principal of temporary loans maturing on or before June 30 for any fund may not exceed eighty percent (80%) of the amount of taxes and state tuition support distributions estimated to be collected or received for and distributed to the fund at the June settlement.

(d) The amount of principal of temporary loans maturing after June 30 and on or before December 31 may not exceed eighty percent (80%) of the amount of taxes and state tuition support distributions estimated to be collected or received for and distributed to the fund at the December settlement.

~~(e) At each settlement, the amount of taxes and state tuition support distributions estimated to be collected or received for and distributed to the fund includes allocations to the fund from the property tax replacement fund.~~

~~(f)~~ **(e)** The county auditor or the auditor's deputy shall determine the

estimated amount of taxes and state tuition support distributions to be collected or received and distributed. The warrants evidencing a loan in anticipation of tax revenue or state tuition support distributions may not be delivered to the purchaser of the warrant and payment may not be made on the warrant before January 1 of the year the loan is to be repaid. However, the proceedings necessary for the loan may be held and carried out before January 1 and before the approval. The loan may be made even though a part of the last preceding June or December settlement has not been received.

~~(g)~~ **(f)** Proceedings for the issuance and sale of warrants for more than one (1) fund may be combined. Separate warrants for each fund must be issued, and each warrant must state on the face of the warrant the fund from which the warrant's principal is payable. An action to contest the validity of a warrant may not be brought later than fifteen (15) days after the first publication of notice of sale.

~~(h)~~ **(g)** An issue of tax or state tuition support anticipation warrants may not be made if the total of all tax or state tuition support anticipation warrants exceeds twenty thousand dollars ($20,000) until the issuance is advertised for sale, bids are received, and an award is made by the governing body as required for the sale of bonds, except that the publication of notice of the sale is not necessary:

(1) outside the county; or

(2) more than ten (10) days before the date of sale.

SECTION 525. IC 20-48-1-11, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. (a) As used in this section, "debt service obligations" refers to the principal and interest payable during a calendar year on a school corporation's general obligation bonds and lease rentals under IC 20-47-2 and IC 20-47-3.

(b) Before the end of each calendar year, the department of local government finance shall review the bond and lease rental levies, or any levies that replace bond and lease rental levies, of each school corporation that are payable in the next succeeding year and the appropriations from the levies from which the school corporation is to pay the amount, if any, of the school corporation's debt service obligations. If the levies and appropriations of the school corporation are not sufficient to pay the debt service obligations, the department of local government finance shall establish for each school corporation:

(1) bond or lease rental levies, or any levies that replace the bond and lease rental levies; and

(2) appropriations;

that are sufficient to pay the debt service obligations.

(c) Upon the failure of a school corporation to pay any of the school corporation's debt service obligations during a calendar year when due, the treasurer of state, upon being notified of the failure by a claimant, shall pay the unpaid debt service obligations that are due from the funds of the state only to the extent of the amounts appropriated by the general assembly for the calendar year for distribution to the school corporation from state funds, deducting the payment from the appropriated amounts. A deduction under this subsection must be made:

(1) first from ~~property tax relief funds to the extent of the property tax relief funds;~~

~~(2) second from~~ all ~~other~~ funds except state tuition support; and

~~(3) third~~ **(2) second** from state tuition support.

(d) This section shall be interpreted liberally so that the state shall to the extent legally valid ensure that the debt service obligations of each school corporation are paid. However, this section does not create a debt of the state.

SECTION 526. IC 20-48-4-7, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. **(a) After June 30, 2008, this section applies only if the alteration or construction is a controlled project (as defined in IC 6-1.1-20-1.1) for which a preliminary determination under IC 6-1.1-20-3.1 was made before July 1, 2008.**

(b) Before altering or constructing a building or an addition to a building, the proposed action must be submitted for approval to the department of local government finance. The department of local government finance shall set the proposal for hearing and give ten (10) days notice of the hearing to the taxpayers of the taxing district by:

(1) one (1) publication in each of two (2) newspapers of opposite political parties published in the taxing district;

(2) one (1) publication if only one (1) newspaper is published;

(3) publication in two (2) newspapers representing the two (2) leading political parties published in the county and having a general circulation in the taxing district if no newspaper is published in the district; or

(4) publication in one (1) newspaper if only one (1) paper is published in the county.

The department of local government finance shall conduct the hearing in the taxing district. After the hearing upon the proposal, the department of

local government finance shall certify its approval or disapproval to the county auditor and to the township trustee.

SECTION 527. IC 20-48-4-8, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Upon approval by the department of local government finance **(if required under section 6 of this chapter),** the township trustee may, with the consent of the township board, issue and sell the bonds of the civil township in an amount sufficient to pay for the alteration, construction, or addition described in section 6 of this chapter.

(b) The trustee may levy a tax on the taxable property of the township in an amount sufficient to discharge the bonds issued and sold. The bonds may not bear a maturity date more than twenty (20) years from the date of issue.

SECTION 528. IC 20-40-8-19, AS AMENDED BY P.L.234-2007, SECTION 230, IS AMENDED TO READ AS FOLLOWS: Sec. 19. ~~This section applies during the period beginning January 1, 2008, and ending December 31, 2009.~~ Money in the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation:

(1) Utility services.

(2) Property or casualty insurance.

(3) Both utility services and property or casualty insurance.

A school corporation's expenditures under this section may not exceed in 2008 and in 2009 three and five-tenths percent (3.5%) of the school corporation's 2005 calendar year distribution.

SECTION 529. IC 20-49-3-8, AS ADDED BY P.L.2-2006, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. The fund may be used to make advances:

(1) to school corporations, including school townships, under IC 20-49-4 and IC 20-49-5;

(2) under IC 20-49-6; and

(3) to charter schools under ~~IC 20-24-7-3(f)~~ **IC 20-24-7-3(c)** and IC 20-49-7.

SECTION 530. IC 25-34.1-3-8, AS AMENDED BY P.L.57-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) This section does not preclude a person who:

(1) is not licensed or certified as a real estate appraiser under this section; and

(2) is licensed as a broker under this article;

from appraising real estate in Indiana for compensation.

(b) As used in this section, "federal act" refers to Title XI of the

Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through 3351).

(c) The commission shall adopt rules to establish a real estate appraiser licensure and certification program to be administered by the board.

(d) The commission may not adopt rules under this section except upon the action and written recommendations of the board under IC 25-34.1-8-6.5.

(e) The real estate appraiser licensure and certification program established by the commission under this section must meet the requirements of:

(1) the federal act;

(2) any federal regulations adopted under the federal act; and

(3) any other requirements established by the commission as recommended by the board, including requirements for education, experience, examination, reciprocity, and temporary practice.

(f) The real estate appraiser licensure and certification requirements established by the commission under this section must require a person to meet the standards for real estate appraiser certification and licensure established:

(1) under the federal act;

(2) by federal regulations; and

(3) **under** any other requirements established by the commission as recommended by the board, including requirements for education, experience, examination, reciprocity, and temporary practice.

(g) The commission may require continuing education as a condition of renewal for real estate appraiser licensure and certification.

(h) The following are not required to be a licensed or certified real estate appraiser to perform the requirements of IC 6-1.1-4:

(1) A county assessor. ~~who holds office under IC 36-2-15.~~

(2) A township assessor. ~~who holds office under IC 36-6-5.~~

(3) An ~~individual employed by an officer described in subdivision (1) or (2).~~ **employee of a county or township assessor.**

(i) Notwithstanding IC 25-34.1-3-2(a):

(1) only a person who receives a license or certificate issued under the real estate appraiser licensure and certification program established under this section may appraise real estate involved in transactions governed by:

(A) the federal act; and

(B) any regulations adopted under the federal act;

as determined under rules adopted by the commission, as

recommended by the board; and

(2) a person who receives a license or certificate issued under the real estate appraiser licensure and certification program established under this section may appraise real estate not involved in transactions governed by:

(A) the federal act; and

(B) any regulations adopted under the federal act;

as determined under rules adopted by the commission, as recommended by the board.

SECTION 531. IC 29-3-9-11, AS AMENDED BY P.L.145-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a)** The department ~~or county office of family and children~~ **of child services shall investigate and report to the court concerning the conditions and circumstances of a minor and the fitness and conduct of the guardian or the proposed guardian whenever ordered to do so by the court.**

(b) The office of the secretary of family and social services shall investigate and report to the court concerning the conditions and circumstances of a minor or an alleged incapacitated ~~person~~ **adult** or protected person **who is an adult** and the fitness and conduct of the guardian or the proposed guardian whenever ordered to do so by the court.

SECTION 532. IC 31-9-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 5.5. "Adoption subsidy", for purposes of IC 31-19-26.5, has the meaning set forth in IC 31-19-26.5-1.**

SECTION 533. IC 31-9-2-9.3, AS ADDED BY P.L.145-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.3. (a) "Applicant", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, ~~IC 31-26-3,~~ **and IC 31-26-3.5,** ~~IC 31-28-1, IC 31-28-2, and IC 31-28-3,~~ means a person who has applied for assistance for the applicant or another person.

(b) "Applicant", for purposes of IC 31-27, means a person who seeks a license to operate a child caring institution, foster family home, group home, or child placing agency.

SECTION 534. IC 31-9-2-9.7, AS ADDED BY P.L.145-2006, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.7. "Assistance", for purposes of the following statutes, means money or services regardless of the source, paid or furnished under any of the following statutes:

(1) IC 31-25-3.

(2) IC 31-25-4.
(3) IC 31-26-2.
~~(4) IC 31-26-3.~~
(4) IC 31-26-3.5.
~~(5) IC 31-28-1.~~
~~(6) IC 31-28-2.~~
~~(7) IC 31-28-3.~~

SECTION 535. IC 31-9-2-10.3, AS ADDED BY P.L.145-2006, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10.3. "Blind", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, ~~IC 31-26-3,~~ IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an individual who has vision in the better eye with correcting glasses of 20/200 or less, or a disqualifying visual field defect as determined upon examination by an ophthalmologist or optometrist who has been designated to make such examinations by the county office and approved by the department.

SECTION 536. IC 31-9-2-17, AS AMENDED BY P.L.145-2006, SECTION 181, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. "Child in need of services", for purposes of ~~IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, IC 31-28-3, and IC 31-34, means~~ **this title, refers to** a child described in IC 31-34-1.

SECTION 537. IC 31-9-2-17.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 17.8. "Child services", for purposes of this title, means the following:**

(1) Services, other than services that are costs of secure detention, specifically provided by or on behalf of the department for or on behalf of children who are:

(A) adjudicated to be:

(i) children in need of services under IC 31-34; or

(ii) delinquent children under IC 31-37;

(B) parties in a child in need of services case filed under IC 31-34 or in a delinquency case filed under IC 31-37 before adjudication or entry of a dispositional decree;

(C) subject to temporary care or supervision by the department under any applicable provision of IC 31-33, IC 31-34, or IC 31-37;

(D) recipients or beneficiaries of a program of informal adjustment approved under IC 31-34-8 or IC 31-37-9; or

(E) recipients or beneficiaries of:

(i) adoption assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 673), as amended;

(ii) adoption subsidies or assistance under IC 31-19-26.5; or

(iii) assistance, including emergency assistance or assisted guardianships, provided under Title IV-A of the federal Social Security Act (42 U.S.C. 601 et seq.), as amended.

(2) Costs of using an institution or facility for providing educational services to children described in subdivision (1)(A), under either IC 20-33-2-29 (if applicable) or IC 20-26-11-13 (if applicable).

(3) Assistance awarded by the department to a destitute child under IC 31-26-2.

SECTION 538. IC 31-9-2-19.5, AS ADDED BY P.L.145-2006, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19.5. "Child welfare services", for purposes of ~~IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means the services for children described in IC 31-26-3-1.~~ **this title, means services provided under a child welfare program.**

SECTION 539. IC 31-9-2-19.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19.6. "Child welfare program", for purposes of this title, has the meaning set forth in IC 31-26-3.5-1.**

SECTION 540. IC 31-9-2-20.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 20.3. "Child with special needs", for purposes of IC 31-19-26.5, has the meaning set forth in IC 31-19-26.5-2.**

SECTION 541. IC 31-9-2-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 24.5. "Costs of secure detention", for purposes of this title, has the meaning set forth in IC 31-40-1-1.5.**

SECTION 542. IC 31-9-2-26, AS AMENDED BY P.L.138-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. "County office" or "county office of family and children", **for purposes of this title,** refers to a ~~county~~ **local** office of the department. ~~of child services established by IC 31-25-1-1.~~

SECTION 543. IC 31-9-2-39.5, AS ADDED BY P.L.145-2006, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39.5. "Destitute child", for purposes of

~~IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3,~~ **this title,** means an individual:

(1) who is needy;

(2) who is not a public ward;

(3) who is less than eighteen (18) years of age;

(4) who has been deprived of parental support or care because of a parent's:

(A) death;

(B) continued absence from the home; or

(C) physical or mental incapacity;

(5) whose relatives liable for the individual's support are not able to provide adequate care or support for the individual without public assistance; and

(6) who is in need of foster care, under circumstances that do not require the individual to be made a public ward.

SECTION 544. IC 31-9-2-44.8, AS ADDED BY P.L.138-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 44.8. "Family preservation services", for purposes of ~~IC 31-34-24 and IC 31-37-24,~~ **IC 31-26-6,** means short term, highly intensive services designed to protect, treat, and support the following:

(1) A family with a child at risk of placement by enabling the family to remain intact and care for the child at home.

(2) A family that adopts or plans to adopt an abused or neglected child who is at risk of placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

SECTION 545. IC 31-9-2-76.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 76.6. "Local office", for purposes of this title, refers to a local office established by the department to serve a county or a region.**

SECTION 546. IC 31-9-2-92.5, AS AMENDED BY P.L.145-2006, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 92.5. (a) "Plan", for purposes of ~~IC 31-34-24,~~ **IC 31-26-6,** has the meaning set forth in ~~IC 31-34-24-1.~~ **IC 31-26-6-1.**

~~(b) "Plan", for purposes of IC 31-37-24, has the meaning set forth in IC 31-37-24-1.~~

~~(c)~~ **(b)** "Plan", for purposes of IC 31-25-4, has the meaning set forth in IC 31-25-4-5.

SECTION 547. IC 31-9-2-99.7, AS ADDED BY P.L.145-2006,

SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 99.7. "Public welfare", for purposes of IC 31-25-3, IC 31-25-4, **and** IC 31-26-2, ~~IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3,~~ means any form of public welfare or Social Security provided in IC 31-25-3, IC 31-25-4, **or** IC 31-26-2. ~~IC 31-26-3, IC 31-28-1, IC 31-28-2, or IC 31-28-3.~~ The term does not include direct township assistance as administered by township trustees under IC 12-20.

SECTION 548. IC 31-9-2-102.5, AS ADDED BY P.L.145-2006, SECTION 210, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 102.5. "Recipient", for purposes of IC 31-25-3, IC 31-25-4, **and** IC 31-26-2, ~~IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3,~~ means a person who has received or is receiving assistance for the person or another person.

SECTION 549. IC 31-9-2-103.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 103.6. "Region", for purposes of this title, refers to an area in Indiana designated as a region by the department. However, for purposes of:**

(1) IC 31-25-2-20, the term refers to a region established under IC 31-25-2-20; and

(2) IC 31-26-6, the term refers to a service region established under IC 31-26-6-3.

SECTION 550. IC 31-9-2-103.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 103.7. "Regional services council", for purposes of this title, refers to a regional services council established for a region under IC 31-26-6-4.**

SECTION 551. IC 31-9-2-113.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 113.7. "Secure detention facility", for purposes of this title, has the meaning set forth in IC 31-40-1-1.5.**

SECTION 552. IC 31-9-2-116.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 116.4. "Services", for purposes of IC 31-40-1, has the meaning set forth in IC 31-40-1-1.5.**

SECTION 553. IC 31-9-2-129 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 129. ~~(a)~~ "Team", for purposes of IC 31-33-3, refers to a community child protection team appointed under IC 31-33-3.

~~(b) "Team", for purposes of IC 31-34-24, has the meaning set forth in~~

~~IC 31-34-24-2.~~

~~(c) "Team", for purposes of IC 31-37-24, has the meaning set forth in IC 31-37-24-2.~~

SECTION 554. IC 31-9-2-135, AS AMENDED BY P.L.138-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 135. (a) "Warrant", for purposes of IC 31-25-3, IC 31-25-4, **and** IC 31-26-2, ~~IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3,~~ means an instrument that is:

(1) the equivalent of a money payment; and

(2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.

SECTION 555. IC 31-14-10-1, AS AMENDED BY P.L.68-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. Upon finding that a man is the child's biological father, the court shall, in the initial determination, conduct a hearing to determine the issues of support, custody, and parenting time. Upon the request of any party or on the court's own motion, the court may order a probation officer ~~or caseworker~~ to prepare a report to assist the court in determining these matters.

SECTION 556. IC 31-14-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. The probation officer ~~or caseworker~~ may do the following:

(1) Consult with any person who may have information about the child and the child's potential custodial arrangements.

(2) Upon approval of the court, refer the child for professional diagnosis and evaluation.

(3) Without consent from the child's parent or guardian, consult with and obtain information concerning the child from:

(A) medical;

(B) psychiatric;

(C) psychological; or

(D) other;

persons who have knowledge of the child.

SECTION 557. IC 31-14-13-5, AS AMENDED BY P.L.68-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The court may order the probation department ~~the county office of family and children,~~ or any licensed child placing agency to supervise the placement to ensure that the custodial or

parenting time terms of the decree are carried out if:

(1) both parents or the child request supervision; or

(2) the court finds that without supervision the child's physical health and well-being would be endangered or the child's emotional development would be significantly impaired.

SECTION 558. IC 31-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) In custody proceedings after evidence is submitted upon the petition, if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by any of the following:

(1) The court social service agency.

(2) The staff of the juvenile court.

(3) The local probation department or, **if the child is the subject of a child in need of services case under IC 31-34,** the ~~county office of family and children.~~ **department of child services.**

(4) A private agency employed by the court for the purpose.

(5) A guardian ad litem or court appointed special advocate appointed for the child by the court under IC 31-17-6 (or IC 31-1-11.5-28 before its repeal).

(b) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the child's potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian. However, the child's consent must be obtained if the child is of sufficient age and capable of forming rational and independent judgments. If the requirements of subsection (c) are fulfilled, the investigator's report:

(1) may be received in evidence at the hearing; and

(2) may not be excluded on the grounds that the report is hearsay or otherwise incompetent.

(c) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten (10) days before the hearing. The investigator shall make the following available to counsel and to any party not represented by counsel:

(1) The investigator's file of underlying data and reports.

(2) Complete texts of diagnostic reports made to the investigator under subsection (b).

(3) The names and addresses of all persons whom the investigator has consulted.

(d) Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party to the proceeding may not waive the party's right of cross-examination before the hearing.

SECTION 559. IC 31-17-2-18, AS AMENDED BY P.L.68-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18. If both parents or all contestants agree to the order or if the court finds that, in the absence of the order, the child's physical health might be endangered or the child's emotional development significantly impaired, the court may order:

(1) the court social service agency;

(2) the staff of the juvenile court;

(3) the local probation department;

~~(4) the county office of family and children;~~ or

~~(5)~~ **(4)** a private agency employed by the court for that purpose;

to exercise continuing supervision over the case to assure that the custodial or parenting time terms of the decree are carried out.

SECTION 560. IC 31-19-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If the child is a ward of:

(1) a guardian;

(2) an agency; or

~~(3) an office of family and children;~~

(3) the department;

the court shall provide for the custody of the child in the adoption decree.

SECTION 561. IC 31-19-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. ~~Upon receipt of a recommendation from the county office of family and children,~~ **(a)** If the petition for adoption contained a request for ~~aid, regardless of whether the aid is given,~~ **financial assistance,** the court shall ~~state in the adoption decree the:~~

~~(1) nature;~~

~~(2) conditions; and~~

~~(3) length of time during which aid shall be paid under IC 31-19-26.~~

refer the petition to the department for a determination of eligibility for:

(1) adoption assistance under 42 U.S.C. 673, including applicable federal and state regulations; or

(2) an adoption subsidy under IC 31-19-26.5.

(b) The department shall determine the eligibility of the adoptive child for financial assistance and the amount of assistance, if any, that will be provided.

(c) The court may not order payment of:

(1) adoption assistance under 42 U.S.C. 673; or

(2) any adoption subsidy under IC 31-19-26.5.

SECTION 562. IC 31-19-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 26.5. Adoption Subsidies

Sec. 1. As used in this chapter, "adoption subsidy" means payments by the department to an adoptive parent of a child with special needs to assist with the cost of care of the child:

(1) after a final decree of adoption of the child has been entered under IC 31-19-11; and

(2) during the time the child is residing with and supported by the adoptive parent or parents.

Sec. 2. As used in this chapter, "child with special needs" means a child who:

(1) is a hard to place child; and

(2) meets the requirements of a special needs child, as specified in 42 U.S.C. 673(c) and the rules of the department applicable to those requirements.

Sec. 3. The department may make payments of adoption subsidy under this chapter for the benefit of a child with special needs if the department has:

(1) either:

(A) entered into a written agreement with the adoptive parent or parents, before or at the time the court enters a final decree of adoption under IC 31-19-11-1, that specifies the amount, terms, and conditions of the adoption assistance payments; or

(B) received a written final order in an administrative appeal in accordance with section 12(4) of this chapter concluding that the adoptive parents are eligible for a subsidy payable under this chapter and determining the appropriate subsidy amount;

(2) determined that sufficient funds are available in the adoption assistance account of the state general fund, and can reasonably

be anticipated to be available in that account during the term of the agreement or order, to make the payments as specified in the agreement or order; and

(3) determined that the child is not eligible for adoption assistance under 42 U.S.C. 673.

Sec. 4. If the department determines that sufficient funds are not or will not be available in the adoption assistance account established under this chapter to make adoption subsidy payments to adoptive parents of all children who may be eligible for a subsidy payable under this chapter, the department may, in accordance with procedures established by rules:

(1) approve new adoption subsidy agreements only for the benefit of children for whom the department has wardship responsibility at the time the adoption petition is filed; or

(2) give priority to funding new adoption subsidy agreements for children for whom the department has had wardship responsibility.

Sec. 5. The amount of adoption subsidy payments under this chapter may not exceed the amount that would be payable by the department for the monthly cost of care of the adopted child in a foster family home at the time:

(1) the adoption subsidy agreement is made; or

(2) the subsidy is payable under the terms of the agreement;

whichever is greater.

Sec. 6. (a) In addition to the adoption subsidy payments determined under section 3 of this chapter, the department may make additional payments for medical or psychological care or treatment of the adoptive child if all the following conditions exist:

(1) The child is a child with special needs, based in whole or in part on a physical, a mental, an emotional, or a medical condition that:

(A) existed before the filing of the adoption petition; or

(B) is causally related to specific conditions that existed or events that occurred before the filing of the adoption petition;

as determined by a physician or psychologist licensed in Indiana.

(2) The child's adoptive parent has applied to the department, in the form and manner specified by the department, for assistance in payment of the cost of special services that the child needs to remedy or ameliorate the condition or conditions identified in subdivision (1).

(3) The department determines that:

(A) the services required are not and will not be covered by either:

(i) private health insurance available to the child or adoptive parent; or

(ii) the Medicaid program in Indiana or the state where the child currently resides; and

(B) payment of the cost of the required services without assistance will cause a significant financial burden and hardship to the adoptive family.

(4) Sufficient funds are available in the adoption assistance account to cover the cost of additional assistance provided under this section.

(b) A determination by the department under this section is not subject to administrative review or appeal, unless specifically authorized by rule of the department under section 12(4) of this chapter, but is subject to judicial review as provided in IC 4-21.5-5.

Sec. 7. An adoptive child who is:

(1) a child with special needs based on a medical, a physical, a mental, or an emotional condition that existed before the filing of the adoption petition; and

(2) the beneficiary of an agreement for adoption subsidy under this chapter;

is eligible for Medicaid.

Sec. 8. (a) As a condition for continuation of subsidy payments under the agreement, the department may require the adoptive parents to submit a verified report, annually or at a time or times specified in the agreement or by rule, stating:

(1) the location of the parents;

(2) the location and condition of the child; and

(3) any additional information required by rule of the department or the agreement.

(b) The department may confirm the accuracy and veracity of the report from any reliable sources of information concerning the adoptive family and child, including any governmental or private agency that serves the area in which the child resides.

(c) If the report or information received by the department indicates a substantial change in the conditions that existed when the adoption subsidy agreement was signed, the department may, after notice to the adoptive parent or parents, modify or discontinue the

adoption subsidy payments provided in the agreement.

Sec. 9. (a) Except as provided in this section, the term of any adoption subsidy agreement under this chapter, including any extension of the original term, ends when any of the following events occurs:

(1) The child becomes eighteen (18) years of age.

(2) The child becomes emancipated.

(3) The adoptive parent or parents are no longer providing financial support to the child.

(4) The child dies.

(5) The child's adoption is terminated.

(b) The department may continue the adoption subsidy payments, in amounts determined by agreement among the department, the child, and the adoptive parents, during a time after the child becomes eighteen (18) years of age and before the child becomes twenty-one (21) years of age if:

(1) either:

(A) the child is enrolled in:

(i) a secondary school;

(ii) a public or private institution of higher education; or

(iii) a course of career or technical education leading to gainful employment; or

(B) the child needs continuing support and assistance for a physical, a medical, a mental, or an emotional condition that limits or prevents the child from becoming self-supporting; and

(2) the adoptive parent or parents:

(A) provide the principal source of financial support for the child's room, board, medical care, and other necessary living expenses; and

(B) are entitled to claim the child as a dependent on their federal or state income tax return or returns for the year in which the continued subsidy payments are made.

Sec. 10. An adoption assistance account is established within the state general fund for the purpose of funding adoption subsidy payments under this chapter and the state's share of adoption assistance payments under 42 U.S.C. 673. The account consists of:

(1) amounts specifically appropriated to the department by the general assembly for adoption assistance;

(2) amounts allocated by the department to the adoption

assistance account from the funds available to the department; and

(3) any other amounts contributed or paid to the department for adoption assistance under this chapter.

Sec. 11. (a) In determining the availability of funds in the adoption assistance account for payments of adoption subsidies under this chapter, the department shall give priority to payments required by court orders for county adoption subsidies entered under IC 31-19-26 (before its repeal).

(b) The provisions of this chapter applicable to continuation, modification, or termination of adoption subsidy payments shall apply after January 1, 2009, to county adoption subsidy orders entered under IC 31-19-26 (before its repeal).

Sec. 12. The department shall adopt rules under IC 4-22-2, as needed, to carry out this chapter. The rules must include at least the following subjects:

(1) The application and determination process for subsidies or other assistance provided under this chapter.

(2) The standards for determination of a child with special needs.

(3) The process for determining the duration, extension, modification, and termination of agreements, as provided in sections 8 and 9 of this chapter.

(4) The procedure for administrative review and appeal of determinations made by the department under this chapter.

(5) The procedure for determining availability of funds for new subsidy agreements and continuation of existing agreements or orders under this chapter and IC 31-19-26 (before its repeal), including any funding limitations or priorities as provided in sections 4 and 11 of this chapter.

Sec. 13. This chapter does not affect:

(1) the legal status of an adoptive child;

(2) the rights and responsibilities of the adoptive parents as provided by law; or

(3) the eligibility of an adoptive child or adoptive parents for adoption assistance under Title IV-E of the Social Security Act (42 U.S.C. 673), federal and state regulations applicable to the Title IV-E adoption assistance program, or determination of the amount of any assistance provided by the department through the Title IV-E adoption assistance program.

SECTION 563. IC 31-25-2-2.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The following are not personally liable, except to the state, for an official act done or omitted in connection with performance of duties under this title:**

(1) The director of the department.

(2) Other officers and employees of the department.

SECTION 564. IC 31-25-2-5, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) ~~This section applies after June 30, 2008.~~

~~(b) A child protection caseworker or a child welfare caseworker may not be assigned work that exceeds the following maximum caseload levels at any time:~~ **The department shall ensure that the department maintains staffing levels of family case managers so that each county has enough family case managers to allow caseloads to be at not more than:**

(1) ~~For caseworkers assigned only initial assessments, including investigations of an allegation of child abuse or neglect,~~ twelve (12) active cases ~~per month per caseworker.~~ **relating to initial assessments, including investigations of an allegation of child abuse or neglect; or**

(2) ~~For caseworkers assigned only ongoing cases,~~ seventeen (17) ~~active~~ children ~~per caseworker.~~ **monitored and supervised in active cases relating to ongoing services.**

~~(3) For caseworkers assigned a combination of initial assessments, including investigations of an allegation of child abuse or neglect, and ongoing cases under subdivisions (1) and (2), four (4) investigations and ten (10) active ongoing cases per caseworker.~~

~~(c)~~ **(b)** The department shall comply with the maximum caseload ratios described in subsection ~~(b).~~ **(a).**

SECTION 565. IC 31-25-2-7, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. **(a)** The department is responsible for the following:

(1) Providing child protection services under this article.

(2) Providing and administering child abuse and neglect prevention services.

(3) Providing and administering child services. ~~(as defined in IC 12-19-7-1).~~

(4) Providing and administering family services.

(5) Providing family preservation services under IC 31-26-5.

(6) Regulating and licensing the following under IC 31-27:

(A) Child caring institutions.

(B) Foster family homes.

(C) Group homes.

(D) Child placing agencies.

(7) Administering the state's plan for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).

(8) Administering foster care services.

(9) Administering independent living services (as described in 42 U.S.C. 677 et seq.).

(10) Administering adoption services.

(11) Certifying and providing grants to the youth services bureaus under IC 31-26-1.

(12) Administering the project safe program.

(13) Paying for programs and services as provided under IC 31-40.

(b) This chapter does not authorize or require the department to:

(1) investigate or report on proceedings under IC 31-17-2 relating to a child who is not the subject of an open child in need of services case under IC 31-34; or

(2) otherwise monitor child custody or visitation in dissolution of marriage proceedings.

(c) This chapter does not authorize or require the department to:

(1) conduct home studies; or

(2) otherwise participate in guardianship proceedings under IC 29-3;

other than those over which the juvenile court has jurisdiction under IC 29-3-2-1(c) or IC 31-30-1-1(10).

SECTION 566. IC 31-25-2-19, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. (a) The department may charge the following adoption fees:

(1) An adoption placement fee that may not exceed the actual costs incurred by the ~~county office~~ **department** for medical expenses of children and mothers.

(2) A fee that does not exceed the time and travel costs incurred by the ~~county office~~ **department** for home study and investigation concerning a contemplated adoption.

(b) Fees charged under this section shall be deposited ~~in a separate account~~ in the ~~county family and children~~ **child** trust clearance ~~fund~~

account established under ~~IC 12-19-1-16.~~ **IC 31-25-2-20.2.** Money deposited under this subsection shall be expended by the department for the following purposes without further appropriation:

(1) The care of children whose adoption is contemplated.

(2) The improvement of adoption services provided by the department.

(c) The director may adopt rules governing the expenditure of money under this section.

(d) The department may ~~provide written authorization allowing a county office to~~ reduce or waive charges authorized under this section in hardship cases or for other good cause after investigation. The department may adopt forms on which the written authorization is provided.

SECTION 567. IC 31-25-2-20.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 20.1. (a) The department may receive and administer a gift, devise, or bequest of personal property, including the income from real property, that is:**

(1) to or for the benefit of a home or an institution in which formerly abused or neglected children are cared for under the supervision of the department; or

(2) for the benefit of children who are committed to the care or supervision of the department.

(b) The department may invest or reinvest money received under this section in the same types of securities in which life insurance companies are authorized by law to invest the money of the life insurance companies.

(c) The following shall be kept in the child trust clearance account established under section 20.2 of this chapter and may not be commingled with any other fund or account or with money received from taxation:

(1) All money received by the department under this section.

(2) All money, proceeds, or income realized from real property or other investments.

(d) Subject to the approval of the director, money described in subsection (c)(1) or (c)(2) may be expended by the department in any manner consistent with the purposes of the child trust clearance account and with the intention of the donor.

SECTION 568. IC 31-25-2-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 20.2. (a) This section does not apply to:**

(1) money received before January 1, 2009, to reimburse the county family and children's fund for expenditures made from the appropriations of the counties; or

(2) money received after December 31, 2008, to reimburse the department for expenditures made by the department for child services.

(b) The department may receive and administer money available to or for the benefit of a person receiving payments or services from the department. The following apply to all money received under this section:

(1) The money shall be kept in a special account known as the child trust clearance account and may not be commingled with any other money.

(2) The money may be expended by the department in any manner consistent with the following:

(A) The purpose of the child trust clearance account or with the intention of the donor of the money.

(B) Indiana law.

SECTION 569. IC 31-26-2-10, AS ADDED BY P.L.145-2006, SECTION 272, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) Upon the completion of an investigation under section 9 of this chapter, the ~~county office~~ **department** shall do the following:

(1) Determine whether the child is eligible for assistance under this chapter and the department's rules.

(2) Determine the amount of the assistance and the date on which the assistance is to begin.

(3) Make an award, including any subsequent modification of the award, with which the department shall comply until the award or modified award is vacated.

(4) Notify the applicant and the department of the county office's decision in writing.

(b) The ~~county office~~ **department** shall provide assistance to the recipient at least monthly upon warrant of the ~~county~~ auditor **of state.** ~~The assistance must be:~~

~~(1) made from the county family and children's fund and~~

~~(2) based on a verified schedule of the recipients.~~

~~(c) The director of the county office shall prepare and verify the amount payable to the recipient, in relation to the awards made by the county office. The department shall prescribe the form on which the~~

~~schedule under subsection (b)(2) must be filed.~~

SECTION 570. IC 31-26-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3.5. Child Welfare Programs

Sec. 1. As used in this chapter, "child welfare program" means a program or an activity that is:

(1) not a component of child services provided to or for the benefit of a particular child or family; and

(2) designed to serve groups or categories of children or families in a community for the purposes described in section 2 of this chapter.

Sec. 2. A child welfare program may be established and funded by the department for any of the following purposes:

(1) Protecting and promoting the welfare of children in a community who are, or are likely to be, at risk of becoming homeless, neglected, or abused due to lack of adequate or appropriate parental support or supervision, in order to reduce the likelihood that the children will become wards of a juvenile court or the department.

(2) Preventing, remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation, or delinquency of children.

(3) Preventing unnecessary separation of children from their families by identifying family problems, assisting in the resolution of family problems, and preventing the breakup of families whenever prevention of child removal is possible and desirable.

(4) Providing services targeted to the assistance of children who are developmentally or physically disabled and their families, for the purposes of prevention of potential abuse, neglect, or abandonment of those children, and enabling the children to receive adequate family support and preparation to become self-supporting to the extent feasible.

(5) Providing family preservation services or family support services (both as defined in 42 U.S.C. 629a) for families and children who are not currently receiving individually designed services provided or funded by the department through an open juvenile court child in need of services or delinquency case.

Sec. 3. (a) An application to establish a new child welfare program,

or to continue or modify an existing child welfare program, may be submitted by a court, county executive, private nonprofit agency or organization, or an interested person based on guidelines and instructions issued by the department. Except as provided in subsection (b), the application shall be transmitted to the regional services council or councils for the county, region, or geographic area of Indiana that the applicant proposes to serve. Each regional services council must review and submit its recommendations to the director in conformity with procedures established by the department.

(b) An application to establish, continue, or modify a program that will operate on a statewide basis shall be submitted directly to the director of the department for review and evaluation.

Sec. 4. A child welfare program must be approved by the director of the department or the director's designee. The director's approval shall specify the period for which operation of the program is approved and the procedure for submission of any request for continuation, extension, or modification of the approved program. The department may not pay for the costs of any programs that have not been approved by the director.

Sec. 5. The department shall establish policies and procedures for periodic review and evaluation of approved child welfare programs, including evaluation of the effectiveness and results of the program activities, as part of the consideration of any application to continue or modify the program.

Sec. 6. (a) A child welfare program account is established in the state general fund to receive money for establishment, operation, or support of child welfare programs. Receipts credited to the child welfare program account may be derived from the following sources:

(1) Any appropriation made by the general assembly that is specifically designated for child welfare programs.

(2) Any part of the appropriation to the department that is set aside and allocated by the department for child welfare programs, at the discretion of the director.

(3) Any part of federal grant funds received by the department through Title IV-B Parts 1 and 2 of the Social Security Act (42 U.S.C. 620 et seq.) that is allocated by the department for child welfare programs under this chapter at the discretion of the director, subject to the terms and conditions of the grant.

(4) Any gifts received by the department from individuals or nongovernmental organizations, for purposes of child welfare

programs. The department may receive and administer any gifts earmarked for specifically designated child welfare programs, in accordance with the terms of the gift.

(b) Any appropriation made by the general assembly for the child welfare program account remains in the child welfare program account until expended and does not revert to the state general fund at the expiration of the state fiscal year for which the appropriation was made.

Sec. 7. The department may adopt rules under IC 4-22-2 that are necessary or appropriate to implement this chapter.

SECTION 571. IC 31-26-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 6. Regional Service Strategic Plans

Sec. 1. As used in this chapter, "plan" includes a regional services strategic plan to achieve the purposes described in section 5 of this chapter and any implementation strategy, revision, addition, or update of the plan, as described in section 12(a) of this chapter.

Sec. 2. As used in this chapter, "regional services council" means a council appointed as provided in section 7 of this chapter.

Sec. 3. As used in this chapter, "service region" means an area of Indiana consisting of one (1) or more counties.

Sec. 4. (a) Each county shall participate in a regional services council established under this chapter for the service region in which the county is located.

(b) The department shall determine the county or counties that comprise each service region. A county may not be divided when establishing a service region.

Sec. 5. Each regional services council shall develop a biennial regional services strategic plan that is tailored to provide services targeted to the individual needs of children who:

(1) have been either:

(A) adjudicated as, or alleged in a proceeding initiated under IC 31-34 or IC 31-37 to be, children in need of services or delinquent children; or

(B) identified by the department, based on information received from:

(i) a school;

(ii) a social service agency;

(iii) a court;

(iv) a probation department;

(v) the child's parent or guardian; or

(vi) an interested person in the community having knowledge of the child's environment and family circumstances;

and after an informal investigation, as substantially at risk of becoming children in need of services or delinquent children; and

(2) have been referred to the department by, or with the consent of, the child's parent, guardian, or custodian for services to be provided through the plan based on an individual case plan for the child.

Sec. 6. (a) Each regional services council shall, according to guidelines and policies established by the department, include in its plan an evaluation of local child welfare service needs and a determination of appropriate delivery mechanisms. The policies shall provide an opportunity for local services providers to be represented in the evaluation of local child welfare service needs. In addition, the regional services council shall take public testimony regarding local service needs and system changes.

(b) The council shall also recommend in the plan, or any revision, addition, or update relating to implementation of a plan under section 12(a) of this chapter, the allocation and distribution among service providers of funds that:

(1) the department allocates to the service region; and

(2) are used to pay for the expenses of child welfare programs and child services administered by the department within the region.

Sec. 7. (a) If the service region consists of at least three (3) counties, the regional services council is composed of the following members appointed from the service region:

(1) The regional manager, who must be an employee of the department.

(2) Three (3) members who are juvenile court judges or their designees.

(3) Three (3) local office directors.

(4) Two (2) family case manager supervisors.

(5) Two (2) family case managers.

(6) Two (2) licensed foster parents.

(7) One (1) guardian ad litem or court appointed special

advocate.

(8) One (1) member who is a prosecuting attorney or the prosecuting attorney's designee.

(9) One (1) individual who:

(A) is at least sixteen (16) and less than twenty-five (25) years of age;

(B) is a resident of the service region;

(C) has received or is receiving services through funds provided, directly or indirectly, through the department; and

(D) will serve in a nonvoting capacity.

(b) If the service region consists of one (1) or two (2) counties, the regional services council must include at least the following members from the service region:

(1) Three (3) employees of the department, including the regional manager.

(2) One (1) juvenile court judge or judicial hearing officer.

(3) Two (2) members who are designees of a juvenile court judge.

(4) Two (2) family case manager supervisors.

(5) Two (2) family case managers.

(6) One (1) licensed foster parent.

(7) One (1) person from each category described in subsection (a)(7), (a)(8), and (a)(9).

(c) The director shall appoint the members of the regional services council with the exception of judges or judicial hearing officers and prosecuting attorneys or their respective designees.

(d) The members of the regional services council described in subsections (a)(2), (b)(2), and (b)(3) shall be selected by the juvenile court judge or judges in the service region.

(e) The member of the regional services council described in subsection (a)(8) shall be selected by the prosecuting attorneys in the counties comprising the service region.

(f) Each member of the regional services council shall serve at the pleasure of the member's appointing authority.

Sec. 8. (a) The regional manager shall convene an organizational meeting of the members of a regional services council appointed under section 7 of this chapter.

(b) The regional manager shall serve as the chairperson of the council. The council shall select one (1) of its members as vice chairperson.

Sec. 9. In preparing the plan under section 5 of this chapter, a

regional services council shall review and consider existing publicly and privately funded programs that are available or that could be made available in the regional services council's service region to provide supportive services to or for the benefit of children described in section 5 of this chapter without removing the child from the family home, including programs funded through the following:

(1) Title IV-B of the Social Security Act (42 U.S.C. 620 et seq.).

(2) Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.).

(3) Title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(4) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5106 et seq.).

(5) Special education programs under IC 20-35-6-2.

(6) All programs designed to prevent child abuse, neglect, or delinquency, or to enhance child welfare and family preservation administered by, or through funding provided by, the department, county offices, prosecuting attorneys, or juvenile courts, including programs funded under IC 31-26-3.5 and IC 31-40.

(7) A child advocacy fund under IC 12-17-17.

Sec. 10. A regional services council may include in its plan a program for provision of family preservation services that:

(1) is or will be in effect in the regional services council's service region;

(2) includes services for a child less than eighteen (18) years of age who reasonably may be expected to be considered for out-of-home placement under IC 31-34 or IC 31-37 as a result of:

(A) abuse or neglect;

(B) emotional disturbance; or

(C) delinquency adjudication; and

(3) addresses all the objectives of family preservation services.

Sec. 11. (a) Each regional services council shall transmit to the director each plan it develops and approves. The council shall transmit its biennial plan described in section 5 of this chapter to the director not later than February 2 of each even-numbered year.

(b) Not later than sixty (60) days after receiving the plan, the director of the department or the director's designee shall do one (1) of the following:

(1) Approve the plan as submitted by the council.

(2) Approve the plan with amendments, modifications, or revisions.

(3) Return the plan to the council with directions concerning:

(A) subjects for further study and reconsideration; and

(B) resubmission of a revised plan.

Sec. 12. (a) A regional services council shall meet at least quarterly to do the following:

(1) Develop, review, or revise a strategy for implementation of an approved plan that identifies:

(A) the manner in which prevention and early intervention services will be provided or improved;

(B) how local collaboration will improve children's services; and

(C) how different funds can be used to serve children and families more effectively.

(2) Reorganize as needed and select its vice chairperson for the ensuing year.

(3) Review the implementation of the plan and prepare revisions, additions, or updates of the plan that the regional services council considers necessary or appropriate to improve the quality and efficiency of early intervention child welfare services provided in accordance with the plan.

(b) The chairperson or vice chairperson of a regional services council may convene any additional meetings of the regional services council that are, in the chairperson's or vice chairperson's opinion, necessary or appropriate.

(c) A majority of the voting members of the regional services council appointed under section 7 of this chapter constitutes a quorum for the transaction of official business that includes taking final action (as defined in IC 5-14-1.5-2(g)). The regional services council may hold a meeting in the absence of a quorum to discuss any items of public business related to its responsibilities and functions as described in this chapter, without taking final action.

(d) A judicial officer or prosecuting attorney who is a member of the regional services council under section 7 of this chapter may designate in writing a person as the member's representative or proxy to attend any meeting of the council specified in the designation. Any designee under this subsection shall be a voting member of the council and be included for purposes of a quorum under subsection (c).

(e) Any department employee who is a member of the regional services council under section 7 of this chapter may designate in writing a person as the member's representative or proxy to attend

any meeting of the council specified in the designation. Any designee under this subsection shall be a voting member of the council and be included for purposes of a quorum under subsection (c).

(f) All meetings of a regional services council under this chapter are subject to applicable provisions of IC 5-14-1.5.

Sec. 13. (a) This section applies to a meeting of a regional services council at which at least four (4) voting members of the council are physically present at the place where the meeting is conducted.

(b) A member of the regional services council may participate in a meeting of the council by using a means of communication that allows:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to communicate simultaneously with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); or

(3) was absent.

Sec. 14. (a) A regional services council or the regional manager shall transmit copies of the plan, each annual report, each revised plan, and any other report or document described by rule adopted under section 16 of this chapter, to the following:

(1) The director.

(2) Each department office in the service region.

(3) Each juvenile court in the service region.

(b) A regional services council shall provide to the department a copy of each plan, annual report, or revised plan transmitted under subsection (a) to be posted to the department's Internet web site.

Sec. 15. A regional services council shall publicize to residents of each county in the service region the existence and availability of the plan, including information concerning access to the plan on the department web site.

Sec. 16. The department may adopt rules under IC 4-22-2 to administer this chapter.

SECTION 572. IC 31-31-8-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) The juvenile court may establish juvenile detention and shelter care facilities for children, except as provided by IC 31-31-9.

(b) The court may contract with other agencies to provide juvenile detention and shelter care facilities.

(c) If the juvenile court operates the juvenile detention and shelter care facilities, the judge shall appoint staff and determine the budgets.

(d) The county shall pay all expenses. The expenses for the juvenile detention facility shall be paid from the county general fund. ~~Payment of the expenses for the juvenile detention facility may not be paid from the county family and children's fund established by IC 12-19-7-3.~~

SECTION 573. IC 31-31-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) This section applies to a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

(b) Notwithstanding section 3 of this chapter, the juvenile court shall operate a juvenile detention facility or juvenile shelter care facility established in the county. However, the county legislative body shall determine the budget for the juvenile detention facility or juvenile shelter care facility. The expenses for the juvenile detention facility shall be paid from the county general fund. ~~Payment of the expenses for the juvenile detention facility may not be paid from the county family and children's fund established by IC 12-19-7-3.~~

SECTION 574. IC 31-33-3-1, AS AMENDED BY P.L.234-2005, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) **A community child protection team is established in each county.** The community child protection team is a ~~communitywide,~~ **countywide,** multidisciplinary child protection team. The team must include the following ~~eleven (11)~~ **thirteen (13)** members **who reside in, or provide services to residents of, the county in which the team is to be formed:**

(1) The director of the ~~county~~ **local** office ~~of family and children~~ **that provides child welfare services in the county** or the ~~county~~ **local** office director's designee.

(2) Two (2) designees of the juvenile court judge.

(3) The county prosecuting attorney or the prosecuting attorney's designee.

(4) The county sheriff or the sheriff's designee.

(5) Either:

(A) the president of the county executive in a county not

containing a consolidated city or the president's designee; or

(B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.

(6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.

(7) Either:

(A) a public school superintendent or the superintendent's designee; or

(B) a director of a local special education cooperative or the director's designee.

(8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.

(9) ~~One (1) citizen~~ **Two (2) residents** of the ~~community.~~ **county.**

(10) The chief law enforcement officer of the largest law enforcement agency in the county (other than the county sheriff) or the chief law enforcement officer's designee.

(b) The director of the ~~county~~ **local** office ~~of family and children~~ **serving the county** shall appoint, subject to the approval of the director of the department, the members of the team under subsection (a)(7), (a)(8), and (a)(9).

SECTION 575. IC 31-33-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The community child protection ~~team's duties may include preparing~~ **team shall prepare** a periodic report regarding the child abuse and neglect reports and complaints that the team reviews under this chapter.

(b) The periodic report may include the following information:

(1) The number of complaints under section 6 of this chapter that the team receives and reviews each month.

(2) A description of the child abuse and neglect reports that the team reviews each month, including the following information:

(A) The scope and manner of the interviewing process during the child abuse or neglect investigation.

(B) The timeliness of the investigation.

(C) The number of children removed from the home.

(D) The types of services offered.

(E) The number of child abuse and neglect cases filed with a court.

(F) The reasons that certain child abuse and neglect cases are not filed with a court.

SECTION 576. IC 31-33-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Before February 2 of each ~~odd-numbered~~ **even-numbered** year, each ~~county office of family and children,~~ **regional services council,** after a public hearing, shall:

(1) prepare a local plan for the provision of child protection services; and

(2) submit the plan to:

(A) the director; ~~after consultation with local law enforcement agencies;~~

(B) ~~a~~ **each** juvenile court **within the region;**

(C) the community child protection team as provided for in IC 31-33-3-1; and

(D) appropriate public or voluntary agencies, including organizations for the prevention of child abuse or neglect.

SECTION 577. IC 31-33-4-2, AS AMENDED BY P.L.145-2006, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The local plan must describe the implementation of this article in the ~~county~~ **region** by the department, ~~and the county office,~~ including the following:

(1) Organization.

(2) Staffing.

(3) Mode of operations.

(4) Financing of the child protection services.

(5) The provisions made for the purchase of service and interagency relations.

SECTION 578. IC 31-34-4-2, AS AMENDED BY P.L.52-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter **and the court orders out-of-home placement,** the ~~court shall~~ **department is responsible for that placement and care and must** consider placing the child with a:

(1) suitable and willing blood or an adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling;

(2) de facto custodian; or

(3) stepparent;

before considering any other out-of-home placement.

(b) Before ~~placing~~ **the department places** a child in need of services with a blood relative or an adoptive relative caretaker, a de facto custodian, or a stepparent, ~~the court may order~~ the department ~~to:~~

~~(1)~~ **shall** complete ~~a~~ **an evaluation based on a** home ~~study~~ **visit** of the relative's home. ~~and~~

~~(2) provide the court with a placement recommendation.~~

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, a de facto custodian, or a stepparent, ~~the court shall order~~ the department ~~to~~ **shall** conduct a criminal history check of each person who is currently residing in the location designated as the out-of-home placement.

(d) Except as provided in subsection (f), ~~a court~~ **the department** may not ~~order~~ **make** an out-of-home placement if a person described in subsection (c) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 31-27-4-13 or had a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult.

(e) The ~~court is not required to order the~~ department **is not required** to conduct a criminal history check under subsection (c) if the ~~court orders~~ **department makes** an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order **or the department may approve** an out-of-home placement if:

(1) a person described in subsection (c) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.

However, a court **or the department** may not ~~order~~ **make** an out-of-home placement if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(g) In making its written finding under subsection (f), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 579. IC 31-34-4-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a child in need of services at any time before:**

(1) entry of a dispositional decree under IC 31-34-20; or

(2) approval of a program of informal adjustment under IC 31-34-8.

(b) Before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child that has not been recommended by the department, the court shall submit the proposed service, program, or placement to the department for consideration. The department shall, within three (3) business days after receipt of the court's proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the department approves the service, program, or placement recommended by the juvenile court, the court may enter an appropriate order to implement the approved proposal. If the department does not approve a service, program, or placement proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(d) The juvenile court shall accept the recommendations of the

department regarding any predispositional services, programs, or placement for the child, unless the juvenile court finds a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(e) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court may enter an order that:

(1) requires the department to provide a specified service, program, or placement until entry of a dispositional decree or until the order is otherwise modified or terminated; and

(2) specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the court's findings under subsection (d).

(f) If the juvenile court enters its findings and order under subsection (e), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(g) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal initiated under subsection (f), other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the juvenile court order includes written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

SECTION 580. IC 31-34-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. **(a)** The juvenile court shall release the child to the child's parent, guardian, or custodian.

However, the court may order the child detained if the court makes written findings of fact upon the record of probable cause to believe that the child is a child in need of services and that:

(1) detention is necessary to protect the child;

(2) the child is unlikely to appear before the juvenile court for subsequent proceedings;

(3) the child has a reasonable basis for requesting that the child not be released;

(4) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(5) consideration for the safety of the child precludes the use of family services to prevent removal of the child.

(b) The juvenile court shall include in any order approving or requiring detention of a child all findings and conclusions required under:

(1) applicable provisions of Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); or

(2) any applicable federal regulation, including 45 CFR 1356.21; as a condition of eligibility of a child in need of services for assistance under Title IV-E or any other federal law.

(c) Inclusion in a juvenile court order of language approved and recommended by the judicial conference of Indiana, in relation to:

(1) removal from the child's home; or

(2) detention;

of a child who is alleged to be, or adjudicated as, a child in need of services constitutes compliance with subsection (b).

SECTION 581. IC 31-34-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. A **juvenile** court **or the department** shall consider placing a child alleged to be a child in need of services with an appropriate family member of the child before considering any other placement for the child.

SECTION 582. IC 31-34-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. A **juvenile** court **or the department** may not place a child in:

(1) a community based correctional facility for children;

(2) a juvenile detention facility;

(3) a secure facility;

(4) a secure private facility; or

(5) a shelter care facility;

that is located outside the child's county of residence unless placement of the child in a comparable facility with adequate services located in the child's county of residence is unavailable or the child's county of residence does not have an appropriate comparable facility with adequate services.

SECTION 583. IC 31-34-7-2, AS AMENDED BY P.L.145-2006, SECTION 293, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The intake officer shall send to ~~the prosecuting attorney or~~ the attorney for the department a copy of the preliminary inquiry. The intake officer shall recommend whether to:

(1) file a petition;

(2) informally adjust the case;

(3) refer the child to another agency; or

(4) dismiss the case.

SECTION 584. IC 31-34-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a child in need of services.

(b) If the juvenile court denies a program of informal adjustment, the court shall state its reasons for the denial. The reasons may include that:

(1) the juvenile court finds no probable cause to believe that the child is a child in need of services; or

(2) the juvenile court finds that the coercive intervention of the juvenile court is required.

(c) If the juvenile court does not act to either:

(1) approve or deny a program of informal adjustment; or

(2) set a hearing date;

within ten (10) days of its submission to the juvenile court, the program of informal adjustment is considered approved.

(d) If:

(1) the juvenile court sets a hearing under subsection (c); and

(2) the hearing is not concluded and action taken to approve or deny the program of informal adjustment within thirty (30) days of the submission of the program to the juvenile court;

the program of informal adjustment is considered approved.

SECTION 585. IC 31-34-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Upon the filing of a petition for compliance and after notice and a hearing on the petition for compliance, the juvenile court may order the parent, guardian, or

custodian of a child to participate in a program of informal adjustment ~~approved by the court~~ **implemented** under section 1 of this chapter.

(b) A parent, guardian, or custodian who fails to participate in a program of informal adjustment ~~ordered by the court~~ **after being ordered under subsection (a) to participate** may be found in contempt of court.

SECTION 586. IC 31-34-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A program of informal adjustment may not exceed six (6) months, except by approval of the juvenile court. The juvenile court may extend a program of informal adjustment an additional ~~six (6)~~ **three (3)** months.

SECTION 587. IC 31-34-8-7, AS AMENDED BY P.L.234-2005, SECTION 179, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Not later than five (5) months after ~~a court approves~~ **the department implements** a program of informal adjustment under this chapter, the department ~~of child services~~ shall file with the court a report indicating the extent of compliance with the program.

(b) If the court ~~extends~~ **approves an extension of** the period of the informal adjustment under section 6 of this chapter, the department ~~of child services~~ shall file a supplemental report not later than ~~eleven (11)~~ **eight (8)** months after the ~~court initially approves~~ **department implements** the program of informal adjustment updating the court on the status of a person's compliance with the program.

SECTION 588. IC 31-34-9-1, AS AMENDED BY P.L.145-2006, SECTION 294, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. ~~The prosecuting attorney or~~ The attorney for the department:

(1) may request the juvenile court to authorize the filing of a petition alleging that a child is a child in need of services; and

(2) shall represent the interests of the state at this proceeding and at all subsequent proceedings on the petition.

SECTION 589. IC 31-34-13-4, AS AMENDED BY P.L.145-2006, SECTION 296, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A statement or videotape may not be admitted in evidence under this chapter unless ~~the prosecuting attorney or~~ the attorney for the department informs the parties of:

(1) an intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape;

at least ~~twenty (20)~~ **seven (7)** days before the proceedings to give the parties a fair opportunity to prepare a response to the statement or

videotape before the proceeding.

SECTION 590. IC 31-34-14-2, AS AMENDED BY P.L.145-2006, SECTION 297, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. On the motion of ~~the prosecuting attorney or~~ the attorney for the department, the court may order that:

(1) the testimony of a child be taken in a room other than the courtroom and be transmitted to the courtroom by closed circuit television; and

(2) the questioning of the child by the parties be transmitted to the child by closed circuit television.

SECTION 591. IC 31-34-14-3, AS AMENDED BY P.L.145-2006, SECTION 298, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. On the motion of ~~the prosecuting attorney or~~ the attorney for the department, the court may order that the testimony of a child be videotaped for use at proceedings to determine whether a child or a whole or half blood sibling of the child is a child in need of services.

SECTION 592. IC 31-34-14-4, AS AMENDED BY P.L.145-2006, SECTION 299, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The court may not make an order under section 2 or 3 of this chapter unless:

(1) the testimony to be taken is the testimony of a child who at the time of the trial is:

(A) less than fourteen (14) years of age; or

(B) at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

(i) is likely to continue indefinitely;

(ii) constitutes a substantial impairment of the child's ability to function normally in society; and

(iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and

(C) found by the court to be a child who should be permitted to testify outside the courtroom because:

(i) a psychiatrist, physician, or psychologist has certified that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the child's testifying in the courtroom and the court finds that it is more likely than not that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(2) ~~the prosecuting attorney or~~ the attorney for the department has informed the parties and their attorneys by written notice of the intention to have the child testify outside the courtroom; and

(3) ~~the prosecuting attorney or~~ the attorney for the department informed the parties and their attorneys under subdivision (2) at least ~~twenty (20)~~ **seven (7)** days before the proceedings to give the parties and their attorneys a fair opportunity to prepare a response before the proceedings to ~~the motion of the prosecuting attorney or~~ the motion of the attorney for the department to permit the child to testify outside the courtroom.

SECTION 593. IC 31-34-14-6, AS AMENDED BY P.L.145-2006, SECTION 300, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. If the court makes an order under section 3 of this chapter, only the following persons may be in the same room as the child during the child's videotaped testimony:

(1) The judge.

(2) The ~~prosecuting attorney or the~~ attorney for the department.

(3) The attorney for each party.

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the child's well-being.

(7) The parties, who can observe and hear the testimony of the child without the child being able to observe or hear the parties. However, if a party is not represented by an attorney, the party may question the child.

SECTION 594. IC 31-34-14-7, AS AMENDED BY P.L.145-2006, SECTION 301, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. If the court makes an order under section 2 or 3 of this chapter, only the following persons may question the child:

(1) The ~~prosecuting attorney or the~~ attorney for the department.

(2) The attorneys for the parties.

(3) The judge.

SECTION 595. IC 31-34-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. A copy of the

completed case plan shall be sent to the child's parent, guardian, or custodian **and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child** not later than ten (10) days after the plan's completion.

SECTION 596. IC 31-34-16-1, AS AMENDED BY P.L.145-2006, SECTION 306, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child:

~~(1) The prosecuting attorney.~~

~~(2)~~ **(1)** The attorney for the department.

~~(3) A probation officer.~~

~~(4) A caseworker.~~

~~(5) The department of correction.~~

~~(6)~~ **(2)** The guardian ad litem or court appointed special advocate.

SECTION 597. IC 31-34-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Upon finding that a child is a child in need of services, the juvenile court shall order ~~a probation officer~~ **the department** or a caseworker to prepare a predispositional report that contains a:

(1) statement of the needs of the child for care, treatment, rehabilitation, or placement; and

(2) recommendation for the care, treatment, rehabilitation, or placement of the child.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.

(2) The child's:

(A) parent;

(B) guardian;

(C) guardian ad litem;

(D) court appointed special advocate; or

(E) custodian.

SECTION 598. IC 31-34-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to providing the court with a recommendation for the care, treatment, or rehabilitation of the child, the person preparing the report shall consider the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child.

(b) If ~~a probation officer~~ **the department** or caseworker believes that

an out-of-home placement would be appropriate for a child in need of services, the ~~probation officer~~ **department** or caseworker shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

SECTION 599. IC 31-34-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~probation officer~~ **department** or caseworker shall also prepare a financial report on the parent or the estate of the child to assist the juvenile court in determining the person's financial responsibility for services provided for the child or the person.

SECTION 600. IC 31-34-18-6.1, AS AMENDED BY P.L.145-2006, SECTION 308, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) The predispositional report prepared by ~~a probation officer~~ **the department** or caseworker ~~shall~~ **must** include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If ~~a probation officer~~ **the department** or ~~a~~ caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the ~~probation officer~~ **department** or caseworker shall conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who is currently residing in the location designated as the out-of-home placement. The results of the criminal history check must be included in the predispositional report.

(c) ~~A probation officer~~ **The department** or caseworker is not required to conduct a criminal history check under this section if:

(1) the ~~probation officer~~ **department** or caseworker is considering only an out-of-home placement to an entity or **a** facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 601. IC 31-34-19-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec 6.1. (a) Before entering its dispositional decree, the juvenile court shall do the following:**

(1) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the department in the department's predispositional report.

(2) Consider the recommendations for the needs of the child for care, treatment, rehabilitation, or placement made by the parent, guardian or custodian, guardian ad litem or court appointed special advocate, foster parent, other caretaker of the child, or other party to the proceeding.

(3) If the juvenile court determines that the best interests of the child require consideration of other dispositional options, submit the juvenile court's own recommendations for care, treatment, rehabilitation, or placement of the child.

(b) If the juvenile court accepts the recommendations in the department's predispositional report, the juvenile court shall enter its dispositional decree with its findings and conclusions under section 10 of this chapter.

(c) If during or after conclusion of the dispositional hearing, the juvenile court does not accept the recommendations of the department as set out under subsection (a) in the predispositional report and states that the juvenile court wants the department to consider the recommendations made under subsection (a)(2) or (a)(3), the dispositional hearing shall be continued for not more than seven (7) business days after service of notice of the juvenile court's determination. The department shall consider the recommendations that the juvenile court requested the department to consider and submit to the juvenile court a supplemental predispositional report stating the department's final recommendations and reasons for accepting or rejecting the recommendations that were not included in the department's original predispositional report. If the juvenile court accepts the recommendations in the department's supplemental report, the juvenile court may adopt the recommendations as its findings and enter its dispositional decree.

(d) The juvenile court shall accept each final recommendation of the department contained in a supplemental predispositional report submitted under subsection (c), unless the juvenile court finds that a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(e) If the juvenile court does not accept one (1) or more of the department's final recommendations contained in the department's supplemental predispositional report, the juvenile court shall:

(1) enter its dispositional decree with its written findings and conclusions under sections 6 and 10 of this chapter; and

(2) specifically state why the juvenile court is not accepting the final recommendations of the department.

(f) If the juvenile court enters its findings and decree under subsections (d) and (e), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(g) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal initiated under subsection (f), other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

SECTION 602. IC 31-34-20-1, AS AMENDED BY P.L.52-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. **(a)** Subject to **this section and** section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by ~~the probation department or the county office or~~ the department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and **authorize the department to** place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship ~~to a person or shelter care facility.~~ **of the child to the department for supervision, care, and placement.**

(5) Partially or completely emancipate the child under section 6 of this chapter.

(6) Order

~~(A) the child; or~~

~~(B)~~ the child's parent, guardian, or custodian

to ~~receive family~~ **complete** services **recommended by the department and approved by the court under IC 31-34-16, IC 31-34-18, and IC 31-34-19.**

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(8) Order a perpetrator of child abuse or neglect to refrain from returning to the child's residence.

(b) A juvenile court may not place a child in a home or facility that is located outside Indiana unless:

(1) the placement is recommended or approved by the director of the department or the director's designee; or

(2) the juvenile court makes written findings based on clear and convincing evidence that:

(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or

(B) the location of the home or facility is within a distance not greater than fifty (50) miles from the county of residence of the child.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to the department; and

(2) is the first juvenile court order in the child in need of services proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the juvenile court shall include in the decree the appropriate findings

and conclusions described in IC 31-34-5-3(b) and IC 31-34-5-3(c).

SECTION 603. IC 31-34-20-1.5, AS AMENDED BY P.L.1-2007, SECTION 207, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) Except as provided in subsection (d), the juvenile court may not enter a dispositional decree ~~placing~~ **approving or ordering placement of** a child in another home under section ~~1(3)~~ **1(a)(3)** of this chapter or awarding wardship to ~~a county office or~~ the department that will place the child ~~with a person~~ **in another home** under section ~~1(4)~~ **1(a)(4)** of this chapter if a person who is currently residing in the home in which the child would be placed under section ~~1(3)~~ **1(a)(3)** or ~~1(4)~~ **1(a)(4)** of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The ~~juvenile court shall order the probation officer~~ **department** or caseworker who prepared the predispositional report ~~to~~ **shall** conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the ~~juvenile court~~ **department or caseworker** is not required to ~~order~~ **conduct** a criminal history check under this section if criminal history information under IC 31-34-4-2 or IC 31-34-18-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) ~~A probation officer or~~ **The department or** caseworker is not required to conduct a criminal history check under this section if:

(1) the ~~probation officer or~~ **department or** caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

(d) A **juvenile** court may enter a dispositional decree ~~placing~~ **that approves placement of** a child in another home or award wardship to ~~a county office~~ **the department that will place the child in a home with**

a person described in subsection (a) if:

(1) ~~a~~ **the** person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office is in the best interest of the child.

However, a court may not enter a dispositional decree ~~placing~~ **that approves placement of** a child in another home or ~~award~~ **awards** wardship to ~~a county office or~~ the department if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 604. IC 31-34-20-5, AS AMENDED BY P.L.159-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 5. (a) This section applies if **the department or** a juvenile court:

(1) places a child;

(2) changes the placement of a child; or

(3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

(1) Make findings of fact concerning the legal settlement of the child.

(2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in:

(A) the dispositional order;

(B) the modification order; or

(C) the other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The **department or a** juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the **department or juvenile** court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

SECTION 605. IC 31-34-21-2, AS AMENDED BY P.L.146-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The case of each child in need of services under the supervision of ~~the county office or~~ the department must be reviewed at least once every six (6) months, or more often, if ordered by the court.

(b) The first of these periodic case reviews must occur:

(1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or

(2) at least six (6) months after the date of the dispositional decree; whichever comes first.

(c) Each periodic case review must be conducted by the juvenile court

in a formal court hearing.

(d) The court may perform a periodic case review any time after a progress report is filed as described in section 1 of this chapter.

SECTION 606. IC 31-34-21-3, AS AMENDED BY P.L.145-2006, SECTION 315, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Before a case review under section 2 of this chapter, ~~the probation department or~~ the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

SECTION 607. IC 31-34-21-5, AS AMENDED BY P.L.145-2006, SECTION 318, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The court shall determine:

(1) whether the child's case plan, services, and placement meet the special needs and best interests of the child;

(2) whether ~~the county office or~~ the department has made reasonable efforts to provide family services; and

(3) a projected date for the child's return home, the child's adoption placement, the child's emancipation, or the appointment of a legal guardian for the child under ~~section 7.5(1)(E)~~ **section 7.5(c)(1)(E)** of this chapter.

(b) The determination of the court under subsection (a) must be based on findings written after consideration of the following:

(1) Whether the department, the child, or the child's parent, guardian, or custodian has complied with the child's case plan.

(2) Written documentation containing descriptions of:

(A) the family services that have been offered or provided to the child or the child's parent, guardian, or custodian;

(B) the dates during which the family services were offered or provided; and

(C) the outcome arising from offering or providing the family services.

(3) The extent of the efforts made by the department to offer and provide family services.

(4) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.

(5) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.

(6) The extent to which the parent, guardian, or custodian has cooperated with the department. ~~or probation department.~~

(7) The child's recovery from any injuries suffered before removal.

(8) Whether any additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of those services.

(9) The extent to which the child has been rehabilitated.

(10) If the child is placed out-of-home, whether the child is in the least restrictive, most family-like setting, and whether the child is placed close to the home of the child's parent, guardian, or custodian.

(11) The extent to which the causes for the child's out-of-home placement or supervision have been alleviated.

(12) Whether current placement or supervision by the department should be continued.

(13) The extent to which the child's parent, guardian, or custodian has participated or has been given the opportunity to participate in case planning, periodic case reviews, dispositional reviews, placement of the child, and visitation.

(14) Whether the department has made reasonable efforts to reunify or preserve a child's family unless reasonable efforts are not required under section 5.6 of this chapter.

(15) Whether it is an appropriate time to prepare or implement a permanency plan for the child under section 7.5 of this chapter.

SECTION 608. IC 31-34-21-7.5, AS AMENDED BY P.L.145-2006, SECTION 324, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), (c)(1)(E), or (c)(1)(F) if a person who is currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or in a residence in which the child would be placed under subsection (c)(1)(F) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) ~~The~~ **Before requesting** juvenile court ~~shall order the probation officer or caseworker who prepared the predispositional report to~~ **approval of a permanency plan, the department shall** conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the ~~juvenile court~~ **department** is not required to ~~order~~ **conduct** a criminal

history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-20-1.5 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the **department or the** court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding ~~by the agency or appropriate person~~ for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the

permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 609. IC 31-34-21-8, AS AMENDED BY P.L.145-2006,

SECTION 325, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. Before a hearing under section 7 of this chapter, ~~the probation department or~~ the department shall prepare a report in accordance with IC 31-34-22 on the progress made in implementing the dispositional decree.

SECTION 610. IC 31-34-22-1, AS AMENDED BY P.L.138-2007, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the ~~probation department or the~~ department shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) Before preparing the report required by subsection (a), the ~~probation department or the~~ department shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the ~~probation department or the~~ department shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing.

SECTION 611. IC 31-34-23-1, AS AMENDED BY P.L.129-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:

(1) upon the juvenile court's own motion;

(2) upon the motion of:

(A) the child;

(B) the child's:

(i) parent;

(ii) guardian;

(iii) custodian;

(iv) court appointed special advocate; or

(v) guardian ad litem;

~~(C) the probation officer;~~

~~(D) the caseworker;~~

~~(E) the prosecuting attorney;~~ or

~~(F)~~ **(C)** the attorney for the ~~county office of family and children;~~ **department;** or

(3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

SECTION 612. IC 31-34-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If the ~~petitioner~~ **motion** requests an emergency change in the child's residence, the court may issue a temporary order. However, the ~~court~~ **department** shall then give notice to the persons affected and **the juvenile court** shall hold a hearing on the question if requested.

(b) If the ~~petition~~ **motion** requests any other modification, the ~~court~~ **department** shall give notice to the persons affected, and ~~may~~ **the juvenile court shall** hold a hearing on the question.

SECTION 613. IC 31-34-23-4, AS AMENDED BY P.L.138-2007, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. If a hearing is required, IC 31-34-18 ~~governs~~ **and IC 31-34-19 apply to** the preparation and use of a modification report. The report shall be prepared if the ~~state~~ **department** or any person other than the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian is requesting the modification. Notice of any hearing under this chapter shall be given in accordance with IC 31-34-19-1.3.

SECTION 614. IC 31-34-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require a person to refrain from direct or indirect contact with a child:

~~(1) The prosecuting attorney.~~

~~(2)~~ **(1)** The attorney for the ~~county office of family and children.~~ **department.**

~~(3) A probation officer.~~

~~(4) A caseworker.~~

~~(5) The department of correction.~~

~~(6)~~ **(2)** The guardian ad litem or court appointed special advocate.

SECTION 615. IC 31-35-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the ~~county office of family and children.~~ **department.**

~~(2) The prosecuting attorney.~~

~~(3)~~ **(2)** The child's court appointed special advocate.

~~(4)~~ **(3)** The child's guardian ad litem.

(b) The petition must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) one (1) of the following exists:

(i) the child has been removed from the parent for at least six (6) months under a dispositional decree;

(ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or

(iii) ~~after July 1, 1999,~~ the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

(3) Indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

SECTION 616. IC 31-35-2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under ~~IC 12-17.4;~~ **IC 31-27;** or

(ii) the home of a person related **(as defined in**

IC 31-9-2-106.5) to the child; ~~(as defined in IC 12-7-2-162.5);~~ as directed by a court in a child in need of services proceeding under IC 31-34; and

(B) has been removed from a parent and has been under the supervision of ~~a county office of family and children~~ **the department** for not less than fifteen (15) months of the most recent twenty-two (22) months, excluding any period not exceeding sixty (60) days before the court has entered a finding and judgment under IC 31-34 that the child is a child in need of services.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the ~~prosecuting attorney or the county office of family and children are~~ **department** ~~entitled to~~ **shall** be joined as a party to the petition. ~~upon application to the court.~~

(d) A party shall file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the ~~county office of family and children~~ **department** under IC 31-34-15 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a ~~relative~~ **person related (as defined in IC 31-9-2-106.5) to the child** who is caring for the child as a **legal** guardian.

(2) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the ~~county office of family and children~~ **department** has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and

(C) the period for completion of the program of family services,

as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

(A) IC 31-34-21-5.6 is not applicable to the child;

(B) the ~~county office of family and children~~ **department** has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and

(C) the services that the ~~county office of family and children~~ **department** has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

SECTION 617. IC 31-35-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Upon the filing of a petition under section 4 of this chapter,

~~(1)~~ the attorney for the ~~county office of family and children; or~~

~~(2) the prosecuting attorney;~~ **department**

shall represent the interests of the state in all subsequent proceedings on the petition.

SECTION 618. IC 31-35-3-4, AS AMENDED BY P.L.145-2006, SECTION 329, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. If:

(1) an individual is convicted of the offense of:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) involuntary manslaughter (IC 35-42-1-4);

(E) rape (IC 35-42-4-1);

(F) criminal deviate conduct (IC 35-42-4-2);

(G) child molesting (IC 35-42-4-3);

(H) child exploitation (IC 35-42-4-4);

(I) sexual misconduct with a minor (IC 35-42-4-9); or

(J) incest (IC 35-46-1-3); and

(2) the victim of the offense:

(A) was less than sixteen (16) years of age at the time of the offense; and

(B) is:

(i) the individual's biological or adoptive child; or

(ii) the child of a spouse of the individual who has committed the offense;

~~the prosecuting attorney,~~ the attorney for the department, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.

SECTION 619. IC 31-35-3-6, AS AMENDED BY P.L.145-2006, SECTION 330, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The ~~person filing the petition~~ **attorney for the department** shall represent the interests of the state in all subsequent proceedings on the petition.

(b) Upon the filing of a petition under section 4 of this chapter, the attorney for the department ~~or the prosecuting attorney~~ shall represent the interests of the state in all subsequent proceedings.

SECTION 620. IC 31-35-4-4, AS AMENDED BY P.L.145-2006, SECTION 331, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A statement or videotape may not be admitted in evidence under this chapter unless ~~the prosecuting attorney or~~ the attorney for the department informs the parties of:

(1) an intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape;

at least ~~twenty (20)~~ **seven (7)** days before the proceedings to give the parties a fair opportunity to prepare a response to the statement or videotape before the proceeding.

SECTION 621. IC 31-35-5-2, AS AMENDED BY P.L.145-2006, SECTION 332, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. On the motion of ~~the prosecuting attorney or~~ the attorney for the department, the court may order that:

(1) the testimony of a child be taken in a room other than the courtroom and be transmitted to the courtroom by closed circuit television; and

(2) the questioning of the child by the parties be transmitted to the child by closed circuit television.

SECTION 622. IC 31-35-5-3, AS AMENDED BY P.L.145-2006, SECTION 333, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. On the motion of ~~the prosecuting attorney or~~ the attorney for the department, the court may order that the testimony of a child be videotaped for use at proceedings to determine whether the parent-child relationship should be terminated.

SECTION 623. IC 31-37-5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8. (a) This section applies to services and programs provided to or on behalf of a child alleged to be a delinquent child at any time before:**

(1) entry of a dispositional decree under IC 31-37-19; or

(2) approval of a program of informal adjustment under IC 31-37-9.

(b) Except as provided in subsection (c), before a juvenile court orders or approves a service, a program, or an out-of-home placement for a child:

(1) that is recommended by a probation officer or proposed by the juvenile court;

(2) for which the costs would be payable by the department under IC 31-40-1-2; and

(3) that has not been approved by the department;

the juvenile court shall submit the proposed service, program, or placement to the department for consideration. The department shall, not later than three (3) business days after receipt of the recommendation or proposal, submit to the court a report stating whether the department approves or disapproves the proposed service, program, or placement.

(c) If the juvenile court makes written findings and concludes that an emergency exists requiring an immediate out-of-home placement to protect the health and welfare of the child, the juvenile court may order or authorize implementation of the placement without first complying with the procedure specified in this section. After entry of an order under this subsection, the juvenile court shall submit a copy of the order to the department for consideration under this section of possible modification or alternatives to the placement and any related services or programs included in the order.

(d) If the department approves the service, program, or placement recommended by the probation officer or juvenile court, the juvenile court may enter an appropriate order to implement the approved

proposal. If the department does not approve a service, program, or placement recommended by the probation officer or proposed by the juvenile court, the department may recommend an alternative service, program, or placement for the child.

(e) The juvenile court shall accept the recommendations of the department regarding any predispositional services, programs, or placement for the child unless the juvenile court finds a recommendation is:

(1) unreasonable, based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

(f) If the juvenile court does not accept the recommendations of the department in the report submitted under subsection (b), the court may enter an order that:

(1) requires the department to provide a specified service, program, or placement, until entry of a dispositional decree or until the order is otherwise modified or terminated; and

(2) specifically states the reasons why the juvenile court is not accepting the recommendations of the department, including the juvenile court's findings under subsection (e).

(g) If the juvenile court enters its findings and order under subsections (e) and (f), the department may appeal the juvenile court's order under any available procedure provided by the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(h) If the department prevails on an appeal initiated under subsection (g), the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) Any programs or services implemented during the appeal, other than the cost of an out-of-home placement ordered by the juvenile court.

(2) Any out-of-home placement ordered by the juvenile court and implemented after entry of the court order of placement, if the court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is

responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

SECTION 624. IC 31-37-6-6, AS AMENDED BY P.L.146-2006, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

(1) the child is unlikely to appear for subsequent proceedings;

(2) detention is essential to protect the child or the community;

(3) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child;

(4) return of the child to the child's home is or would be:

(A) contrary to the best interests and welfare of the child; and

(B) harmful to the safety or health of the child; or

(5) the child has a reasonable basis for requesting that the child not be released.

However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).

(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:

(1) The factual basis for the finding specified in subsection (a)(4).

(2) A description of the family services available and efforts made to provide family services before removal of the child.

(3) The reasons why efforts made to provide family services did not prevent removal of the child.

(4) Whether efforts made to prevent removal of the child were reasonable.

(d) Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

(1) home detention;

(2) electronic monitoring;

(3) a curfew restriction;

(4) a protective order;

(5) a no contact order;

(6) an order to comply with Indiana law; or

(7) an order placing any other reasonable conditions on the child's actions or behavior.

(e) If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to ensure:

(1) the safety of the child's physical or mental health;

(2) the public's physical safety; or

(3) that any combination of subdivisions (1) and (2) is satisfied.

(f) The juvenile court shall include in any order approving or requiring detention of a child or approving temporary detention of a child taken into custody under IC 31-37-5 all findings and conclusions required under:

(1) the applicable provisions of Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); or

(2) any applicable federal regulation, including 45 CFR 1356.21; as a condition of eligibility of a delinquent child for assistance under Title IV-E or any other federal law.

(g) Inclusion in a juvenile court order of language approved and recommended by the judicial conference of Indiana, in relation to:

(1) removal from the child's home; or

(2) detention;

of a child who is alleged to be, or adjudicated as, a delinquent child constitutes compliance with subsection (f).

SECTION 625. IC 31-37-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A child alleged to be a delinquent child under IC 31-37-2, except as provided in section 3 of this chapter, may not be held in:

(1) a secure facility; or

(2) a shelter care facility, **a forestry camp, or a training school** that houses persons charged with, imprisoned for, or incarcerated for crimes.

SECTION 626. IC 31-37-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. A preliminary inquiry is an informal investigation into the facts and circumstances reported to the court. Whenever practicable, the preliminary inquiry should include **the following** information: ~~on the child's:~~

(1) **The child's** background.

(2) **The child's** current status. ~~and~~

(3) **The child's** school performance.

(4) If the child has been detained:

(A) efforts made to prevent removal of the child from the child's home, including the identification of any emergency situation that prevented reasonable efforts to avoid removal;

(B) whether it is in the best interests of the child to be removed from the home environment; and

(C) whether remaining in the home would be contrary to the health and welfare of the child.

SECTION 627. IC 31-37-8-5, AS AMENDED BY P.L.145-2006, SECTION 337, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The intake officer shall do the following:

(1) Send the prosecuting attorney a copy of the preliminary inquiry. ~~if the case involves an allegation that the child committed an act that would be a crime if committed by an adult.~~

~~(2) Send to:~~

~~(A) the prosecuting attorney; or~~

~~(B) the attorney for the department;~~

~~a copy of the preliminary inquiry if the case involves an allegation that the child committed a delinquent act that would not be a crime if committed by an adult.~~

~~(3)~~ **(2)** Recommend whether to:

(A) file a petition;

(B) informally adjust the case;

(C) refer the child to another agency; or

(D) dismiss the case.

(b) The prosecuting attorney and the court may agree to alter the procedure described in subsection (a).

SECTION 628. IC 31-37-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The ~~person who represents the interests of the state and who receives the preliminary inquiry and recommendations~~ **prosecuting attorney** shall decide whether to file a petition. ~~This decision is final only for the office of the person making the decision.~~

SECTION 629. IC 31-37-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. **(a)** After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has

probable cause to believe that the child is a delinquent child **and the child is not removed from the child's home.**

(b) If the program of informal adjustment includes services requiring payment by the department under IC 31-40-1, the intake officer shall submit a copy of the proposed program to the department before submitting it to the juvenile court for approval. Upon receipt of the proposed program, the department may submit its comments and recommendations, if any, to the intake officer and the juvenile court.

SECTION 630. IC 31-37-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. The child and the child's parent, guardian, custodian, or attorney must consent to the program of informal adjustment. **Before payment for services to the family may be paid, written consent must also be obtained from the department.**

SECTION 631. IC 31-37-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Upon the filing of a petition for compliance and after notice and a hearing on the petition for compliance, the juvenile court may order the parent, guardian, or custodian of a child to participate in a program of informal adjustment ~~approved by the court~~ **implemented** under section 1 of this chapter.

(b) A parent, guardian, or custodian who fails to participate in a program of informal adjustment ordered by the court may be found in contempt of court.

SECTION 632. IC 31-37-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. A program of informal adjustment may not exceed six (6) months, except by approval of the juvenile court. The juvenile court may extend a program of informal adjustment an additional ~~six (6)~~ **three (3)** months.

SECTION 633. IC 31-37-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. ~~(a)~~ The prosecuting attorney may file a petition alleging that a child is a delinquent child.

~~(b) The attorney for the county office of family and children may file a petition alleging that a child is a delinquent child under IC 31-37-2.~~

SECTION 634. IC 31-37-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) If the filing of a petition is approved by the court under section 2 of this chapter, the ~~person filing~~ **prosecuting attorney** may request in writing that the child be taken into custody. The person must support this request with sworn testimony or affidavit.

(b) The court may grant the request if the court makes written findings of fact upon the record that a ground for detention exists under IC 31-37-6-6.

SECTION 635. IC 31-37-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. If the court finds that a child is a delinquent child, the court shall do the following:

(1) Enter judgment accordingly.

(2) Order a ~~predisposition~~ **predispositional** report.

(3) Schedule a dispositional hearing.

SECTION 636. IC 31-37-15-1, AS AMENDED BY P.L.145-2006, SECTION 339, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child:

(1) The prosecuting attorney.

~~(2) The attorney for the department.~~

~~(3)~~ **(2)** A probation officer.

~~(4) A caseworker.~~

~~(5)~~ **(3)** The department of correction.

~~(6)~~ **(4)** The guardian ad litem or court appointed special advocate.

SECTION 637. IC 31-37-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer ~~or a caseworker~~ to prepare a predispositional report that contains: ~~a:~~

(1) **a** statement of the needs of the child for care, treatment, rehabilitation, or placement; ~~and~~

(2) **a** recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes:

(A) an out-of-home placement other than a secure detention facility; or

(B) services payable by the department under IC 31-40-1-2; information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter.

(b) Any of the following may prepare an alternative report for

consideration by the court:

(1) The child.

(2) The child's:

(A) parent;

(B) guardian;

(C) guardian ad litem;

(D) court appointed special advocate; or

(E) custodian.

SECTION 638. IC 31-37-17-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1.3. (a) The individuals participating in a meeting described in section 1.1 of this chapter shall assist the person preparing the report in recommending the care, treatment, rehabilitation, or placement of the child.

(b) The individuals shall inform the person preparing the report of resources and programs that are available for the child.

(c) The probation officer ~~or caseworker~~ shall:

(1) collect **and** maintain **all information relevant to a determination of eligibility under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.);** and

(2) complete financial eligibility forms designated by the director to assist in obtaining federal reimbursement and other reimbursement.

SECTION 639. IC 31-37-17-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.4. (a) If the predispositional report includes a recommended placement, program, or services that would be payable by the department under IC 31-40-1-2, a probation officer shall refer the officer's completed predispositional report, except for the statement required under section 1(a)(4) of this chapter, to the department within a reasonable time before its required disclosure under section 6 of this chapter to allow the department time to:**

(1) review; and

(2) either concur with or offer an alternative proposal to the recommendations in;

the predispositional report.

(b) The department shall, after review of the predispositional report and any attachments necessary to verify the predispositional report, and within a reasonable time before the dispositional hearing, either:

(1) concur with the predispositional report; or

(2) communicate to the probation officer an alternative proposal

regarding programs and services.

SECTION 640. IC 31-37-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) In addition to providing the court with a recommendation for the care, treatment, or rehabilitation of the child, the person preparing the report shall consider the necessity, nature, and extent of the participation by a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for the child.

(b) If a probation officer ~~or caseworker~~ believes that an out-of-home placement would be appropriate for a delinquent child, the probation officer ~~or caseworker~~ shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

SECTION 641. IC 31-37-17-3, AS AMENDED BY P.L.145-2006, SECTION 341, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The probation officer ~~or caseworker~~ shall collect information and prepare a financial report, in the form prescribed by the department, on the parent or the estate of the child to assist the juvenile court and the department in:

(1) determining the person's financial responsibility; and

(2) obtaining federal reimbursement;

for services provided for the child or the person.

SECTION 642. IC 31-37-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. **(a)** If consistent with the safety and best interest of the child and the community, the ~~person~~ **probation officer** preparing the report shall recommend care, treatment, rehabilitation, or placement that:

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents' home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

(b) If the report recommends a placement or services for which the department will be responsible for payment under IC 31-40-1, the

report must include a risk assessment and needs assessment for the child. The probation officer shall submit to the department a copy of the report and the financial report prepared by the probation officer.

(c) If the report does not include the:

(1) risk assessment and needs assessment required in subsection (b); or

(2) information required to be provided under section 1(a)(3) of this chapter;

the department is not responsible to pay for programs, services, or placement for or on behalf of the child.

SECTION 643. IC 31-37-17-6.1, AS AMENDED BY P.L.145-2006, SECTION 342, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) The predispositional report prepared by a probation officer ~~or caseworker shall~~ **must** include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(4) The items required under section 1 of this chapter.

(b) If a probation officer ~~or a caseworker~~ is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer ~~or caseworker~~ must conduct a criminal history check (as defined in IC 31-9-2-22.5) for each person who is currently residing in the location designated as the out-of-home placement. The results of the criminal history check must be included in the predispositional report.

(c) A probation officer ~~or caseworker~~ is not required to conduct a criminal history check under this section if:

(1) the probation officer ~~or caseworker~~ is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 644. IC 31-37-18-4, AS AMENDED BY P.L.145-2006,

SECTION 343, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. If:

(1) a child is referred to a probate court;

(2) the juvenile court initiates a commitment proceeding; or

(3) the court transfers a commitment proceeding under IC 12-26-1-4;

the juvenile court shall discharge the child or continue the court's proceedings under the juvenile law. However, if the child is under the custody or supervision of ~~a county office or~~ the department, the juvenile court may not release the department from the obligations of the department to the child pending the outcome of the proceeding under IC 12-26.

SECTION 645. IC 31-37-18-5, AS AMENDED BY P.L.145-2006, SECTION 344, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. If the court authorizes a child who is under the custody or supervision of the department to be placed in a state institution (as defined in IC 12-7-2-184) for voluntary treatment in accordance with IC 12-26-3, the court may not release the department from obligations of the department to the child until **the earlier of:**

(1) the date the child is discharged; or

(2) the date that a parent, guardian, or other responsible person approved by the court assumes the obligations.

SECTION 646. IC 31-37-18-9, AS AMENDED BY P.L.146-2006, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning **approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including** the following **specific findings:**

(1) The needs of the child for care, treatment, rehabilitation, or placement.

(2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.

(3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:

(A) prevent the child's removal from; or

(B) reunite the child with;

the child's parent, guardian, or custodian.

(4) Family services that were offered and provided to:

(A) the child; or

(B) the child's parent, guardian, or custodian.

~~(3)~~ **(5)** The court's reasons for the disposition.

(b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:

(1) unreasonable based on the facts and circumstances of the case; or

(2) contrary to the welfare and best interests of the child.

~~(b)~~ **(c)** The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial Procedure or Indiana Rules of Appellate Procedure to allow any disputes arising under this section to be decided in an expeditious manner.

(e) If the department prevails on appeal, the department shall pay the following costs and expenses incurred by or on behalf of the child before the date of the final decision:

(1) any programs or services implemented during the appeal initiated under subsection (d), other than the cost of an out-of-home placement ordered by the juvenile court; and

(2) any out-of-home placement ordered by the juvenile court and implemented after entry of the dispositional decree or modification order, if the juvenile court has made written findings that the placement is an emergency required to protect the health and welfare of the child.

If the court has not made written findings that the placement is an emergency, the county in which the juvenile court is located is responsible for payment of all costs of the placement, including the cost of services and programs provided by the home or facility where the child was placed.

SECTION 647. IC 31-37-19-1, AS AMENDED BY P.L.146-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. **(a)** Subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department. ~~or the county office or the department.~~

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a:

(A) person, **other than the department;** or

(B) shelter care facility.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(b) If the child is removed from the child's home and placed in a foster family home or another facility, the juvenile court shall:

(A) approve a permanency plan for the child;

(B) find whether or not reasonable efforts were made to prevent or eliminate the need for the removal;

(C) designate responsibility for the placement and care of the child with the probation department; and

(D) find whether it:

(i) serves the best interests of the child to be removed; and

(ii) would be contrary to the health and welfare of the child for the child to remain in the home.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to a:

(A) person other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the court shall include in the decree the appropriate findings and

conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

SECTION 648. IC 31-37-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) This section applies to a delinquent child if the child is placed in an out-of-home residence or facility that is not a secure detention facility.**

(b) The probation department, after negotiating with the child's parent, guardian, or custodian, shall complete the child's case plan not later than sixty (60) days after the earlier of:

(1) the date of the child's first placement; or

(2) the date of a dispositional decree.

(c) A copy of the completed case plan shall be sent to the department, to the child's parent, guardian, or custodian, and to an agency having the legal responsibility or authorization to care for, treat, or supervise the child not later than ten (10) days after the plan's completion.

(d) A child's case plan must be in a form prescribed by the department that meets the specifications set by 45 CFR 1356.21, as amended. The case plan must include a description and discussion of the following:

(1) A permanency plan for the child and an estimated date for achieving the goal of the plan.

(2) The appropriate placement for the child based on the child's special needs and best interests.

(3) The least restrictive family-like setting that is close to the home of the child's parent, custodian, or guardian if out-of-home placement is implemented or recommended, including consideration of possible placement with any suitable and willing relative caretaker, before considering other out-of-home placements for the child.

(4) Family services recommended for the child, parent, guardian, or custodian.

(5) Efforts already made to provide family services to the child, parent, guardian, or custodian.

(6) Efforts that will be made to provide family services that are ordered by the court.

(e) Each caretaker of a child and the probation department shall cooperate in the development of the case plan for the child. The probation department shall discuss with at least one (1) foster parent or other caretaker of a child the role of the substitute caretaker or

facility regarding the following:

(1) Rehabilitation of the child and the child's parents, guardians, and custodians.

(2) Visitation arrangements.

(3) Services required to meet the special needs of the child.

(f) The case plan must be reviewed and updated by the probation department at least once every one hundred eighty (180) days.

SECTION 649. IC 31-37-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. **(a)** A **juvenile** court may not place a child who is a delinquent child under IC 31-37-2 in a shelter care facility that is located outside the child's county of residence unless:

(1) placement of the child in a shelter care facility with adequate services located in the child's county of residence is unavailable; or

(2) the child's county of residence does not have an appropriate shelter care facility with adequate services.

(b) A juvenile court may not place a child in a home or facility that is not a secure detention facility and that is located outside Indiana unless:

(1) the placement is recommended or approved by the director of the department or the director's designee; or

(2) the court makes written findings based on clear and convincing evidence that:

(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or

(B) the location of the home or facility is within a distance not more than fifty (50) miles from the county of residence of the child.

SECTION 650. IC 31-37-19-5, AS AMENDED BY P.L.1-2007, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by

~~(A)~~ the probation department

~~(B) the county office; or~~

~~(C) the department.~~

as a condition of probation under this subdivision. The juvenile court

shall after a determination under IC 11-8-8-5 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 11-8-8-5 if committed by an adult to register with the local law enforcement authority under IC 11-8-8.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 651. IC 31-37-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter and subject to section 6.5 of this chapter, the juvenile court may:

(1) enter any dispositional decree specified in section 5 of this chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

(ii) a community based correctional facility for children.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been

imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a:

(i) person, **other than the department;** or

(ii) shelter care facility.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home, or awards wardship of the child to a:

(A) person, other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the juvenile court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

SECTION 652. IC 31-37-19-6.5, AS AMENDED BY P.L.1-2007, SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.5. (a) Except as provided in subsection ~~(c),~~ **(d),** the

juvenile court may not enter a dispositional decree ~~placing~~ **approving placement of** a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to ~~the county office or the department~~ **a person or facility** that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(b) The juvenile ~~court shall order the~~ probation officer ~~or caseworker~~ who prepared the predispositional report ~~to~~ **shall** conduct a criminal history check (as defined in IC 31-9-2-22.5) to determine if a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13. However, the ~~juvenile court~~ **probation officer** is not required to ~~order~~ **conduct** a criminal history check under this section if criminal history information **obtained** under IC 31-37-17-6.1 establishes whether a person described in subsection (a) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult, or has a conviction for a felony listed in IC 31-27-4-13.

(c) The juvenile probation officer is not required to conduct a criminal history check under this section if:

(1) the probation officer is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

~~(c)~~ **(d)** The juvenile court may enter a dispositional decree ~~placing~~ **approving placement of** a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to ~~the county office or the department~~ **a person or facility** that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of a dispositional decree placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to ~~the county office or the department~~ **a person or facility under this subsection** if ~~the~~ **a** person **with whom the child is or will be placed** has been convicted of a felony listed in IC 31-27-4-13 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 31-27-4-13 if committed by an adult that is not specifically excluded under subdivision (1)(B).

~~(d)~~ **(e)** In making its written finding under subsection ~~(c),~~ **(d),** the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 653. IC 31-37-19-17.4, AS AMENDED BY P.L.125-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense relating to a

criminal sexual act (as defined in IC 35-41-1-19.3).

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court, **subject to the applicable provisions of IC 31-37-17-1.4 and IC 31-37-18-9.**

SECTION 654. IC 31-37-20-1, AS AMENDED BY P.L.145-2006, SECTION 348, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. At any time after the date of an original dispositional decree, the juvenile court may order ~~the department or~~ the probation department to file a report on the progress made in implementing the decree. If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the court shall proceed under IC 31-37-22.

SECTION 655. IC 31-37-20-2, AS AMENDED BY P.L.145-2006, SECTION 349, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The court shall hold a formal hearing:

(1) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;

whichever occurs first; or

(2) more often if ordered by the juvenile court.

(b) The court shall determine whether the dispositional decree should be modified and whether the present placement is in the best interest of the child. The court, in making the court's determination, may consider the following:

(1) The services that have been provided or offered to a parent, guardian, or custodian to facilitate a reunion.

(2) The extent to which the parent, guardian, or custodian has enhanced the ability to fulfill parental obligations.

(3) The extent to which the parent, guardian, or custodian has visited the child, including the reasons for infrequent visitation.

(4) The extent to which the parent, guardian, or custodian has cooperated with the ~~department or~~ probation department.

(5) The child's recovery from any injuries suffered before removal.

(6) Whether additional services are required for the child or the child's parent, guardian, or custodian and, if so, the nature of the services.

(7) The extent to which the child has been rehabilitated.

(c) A review of the dispositional decree will be held at least once every six (6) months, or more often, if ordered by the court. At the review, the court shall determine whether or not the probation department has made reasonable efforts to finalize a permanency plan for the child, if required under IC 31-37-19-1.5.

SECTION 656. IC 31-37-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The court shall hold a formal hearing on the question of continued jurisdiction:

(1) every eighteen (18) months after:

(A) the date of the original dispositional decree; or

(B) a delinquent child was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(2) more often if ordered by the juvenile court.

(b) The state must show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished and that a continuation of the decree with or without modifications has a probability of success.

(c) If the state does not sustain the state's burden for continued jurisdiction, the court may:

(1) authorize a petition for termination of the parent-child relationship; or

(2) discharge the child or the child's parent, guardian, or custodian.

(d) A jurisdictional review of the dispositional decree, including a review of the child's permanency plan, if required under IC 31-37-19-1.5, shall be held at least once every twelve (12) months.

SECTION 657. IC 31-37-20-4, AS AMENDED BY P.L.145-2006, SECTION 350, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Before a hearing under section 2 or 3 of this chapter, the probation department ~~or the department~~ shall prepare a report in accordance with IC 31-37-21 on the progress made in implementing the dispositional decree.

SECTION 658. IC 31-37-21-1, AS AMENDED BY P.L.145-2006, SECTION 351, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Before a hearing under IC 31-37-20-2 or IC 31-37-20-3, the probation department ~~or the department~~ shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, ~~or~~ reuniting the family, **or finalizing another**

permanency plan as approved by the court.

(b) Before preparing the report required by subsection (a), the probation department ~~or the department~~ shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the probation department ~~or the department~~ shall prepare a modification report containing the information required by IC 31-37-17 and request a formal court hearing.

SECTION 659. IC 31-37-22-1, AS AMENDED BY P.L.145-2006, SECTION 352, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. While the juvenile court retains jurisdiction under IC 31-30-2, the juvenile court may modify any dispositional decree:

(1) upon the juvenile court's own motion;

(2) upon the motion of:

(A) the child;

(B) the child's parent, guardian, custodian, or guardian ad litem;

(C) the probation officer; **or**

~~(D) the caseworker;~~

~~(E)~~ **(D)** the prosecuting attorney; or

~~(F) the attorney for the department; or~~

(3) upon the motion of any person providing services to the child or to the child's parent, guardian, or custodian under a decree of the court.

SECTION 660. IC 31-37-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) If the ~~petitioner~~ **motion** requests an emergency change in the child's residence, the **juvenile** court may issue a temporary order. However, the ~~court~~ **probation officer** shall then give notice to the persons affected and **the juvenile court** shall hold a hearing on the question if requested.

(b) If the ~~petition~~ **motion** requests any other modification, the ~~court~~ **probation officer** shall give notice to the persons affected and ~~may~~ **the juvenile court shall** hold a hearing on the question.

(c) The procedures specified in IC 31-37-17-1.4 and IC 31-37-18-9 apply to any modification of a dispositional decree under this chapter that requires or would require payment by the department, under IC 31-40-1, for any of the costs of programs, placements, or services for or on behalf of the child.

SECTION 661. IC 31-37-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. If:

(1) a child is placed in a shelter care facility or other place of

residence as part of a court order with respect to a delinquent act under IC 31-37-2-2;

(2) the child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;

(3) the issuance of the warning was reflected in the records of the hearing;

(4) the child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and

(5) the child's mental and physical condition may be endangered if the child is not placed in a secure facility;

the juvenile court may modify its disposition order with respect to the delinquent act and place the child in a public or private facility for children **under section 7 of this chapter.**

SECTION 662. IC 31-37-25-1, AS AMENDED BY P.L.145-2006, SECTION 356, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Any of the following may sign and file a petition for the juvenile court to require a person to refrain from direct or indirect contact with a child:

(1) The prosecuting attorney.

~~(2) The attorney for the department.~~

~~(3)~~ **(2)** A probation officer.

~~(4) A caseworker.~~

~~(5)~~ **(3)** The department of correction.

~~(6)~~ **(4)** The guardian ad litem or court appointed special advocate.

SECTION 663. IC 31-40-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. This article applies to ~~a financial burden sustained by a county as the result of~~ costs paid by the ~~county~~ **department** under section 2 of this chapter, including costs resulting from the institutional placement of a child adjudicated a delinquent child or a child in need of services.

SECTION 664. IC 31-40-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.5. (a) As used in this chapter, "costs of secure detention" includes all expenses relating to any of the following items:**

(1) Construction, repair, operation, maintenance, and

administration of a secure detention facility.

(2) Room, board, supervision, and support services for housing at a secure detention facility of a child who has been:

(A) taken into custody under IC 31-37-5 and placed in a secure detention facility for purposes of court proceedings under IC 31-37; or

(B) placed in a secure detention facility under IC 31-37-19-6 or IC 31-37-19-10.

(3) Services provided by the department, a county probation office, or any service provider contracted by the department or county probation office if the services are provided:

(A) to or for the benefit of the child;

(B) under or consistent with the terms of a dispositional decree entered in accordance with IC 31-37-19-6 or IC 31-37-19-10; and

(C) during the time the child is housed in a secure detention facility.

(b) As used in this chapter, "secure detention facility" includes:

(1) a juvenile detention center described in IC 31-31-8 or IC 31-31-9; or

(2) a secure facility, including any separate unit or structure, that is:

(A) not licensed by the department under IC 31-27; or

(B) located outside Indiana.

(c) As used in this chapter, "services" includes education, provision of necessary clothing and supplies, medical and dental care, counseling and remediation, or any other services or programs included in a dispositional decree or case plan ordered or approved by the juvenile court for the benefit of a delinquent child under IC 31-37.

SECTION 665. IC 31-40-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) **Except as otherwise provided in this section and subject to:**

(1) this chapter; and

(2) any other provisions of IC 31-34, IC 31-37, or other applicable law relating to the particular program, activity, or service for which payment is made by or through the department;

the ~~county~~ **department** shall pay ~~from the county family and children's fund~~ the cost of ~~(1)~~ any **child** services ~~ordered by the juvenile court~~ **provided by or through the department** for any child or the child's

parent, guardian, or custodian. ~~other than secure detention; and~~

~~(2)~~ **(b) The department shall pay the cost of** returning a child under IC 31-37-23.

~~(b) The county fiscal body shall provide sufficient money to meet the court's requirements.~~

(c) Except as provided under section 2.5 of this chapter, the department is not responsible for payment of any costs of secure detention.

(d) The department is not responsible for payment of any costs or expenses for child services for a child if:

(1) the juvenile court has not entered the required findings and conclusions in accordance with IC 31-34-5-3, IC 31-34-20-1, IC 31-37-6-6, IC 31-37-19-1, or IC 31-37-19-6 (whichever is applicable); and

(2) the department has determined that the child otherwise meets the eligibility requirements for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.).

(e) In all cases under this title, if the juvenile court orders services, programs, or placements that:

(1) are not eligible for federal assistance under either Title IV-B of the federal Social Security Act (42 U.S.C. 620 et seq.) or Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and

(2) have not been recommended or approved by the department; the department is not responsible for payment of the costs of those services, programs, or placements.

(f) The department is not responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana, if the placement does not comply with the conditions stated in IC 31-34-20-1(b) or IC 31-37-19-3(b).

(g) The department is not responsible for payment of any costs or expenses of child services for a delinquent child under a dispositional decree entered under IC 31-37-19, if the probation officer who prepared the predispositional report did not submit to the department the information relating to determination of eligibility of the child for assistance under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.), as required by IC 31-37-17-1(a)(3).

(h) If:

(1) the department is not responsible for payment of costs or

expenses of services, programs, or placements ordered by a court for a child or the child's parent, guardian, or custodian, as provided in this section; and

(2) another source of payment for those costs or expenses is not specified in this section or other applicable law;

the county in which the child in need of services case or delinquency case was filed is responsible for payment of those costs and expenses.

SECTION 666. IC 31-40-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.5. (a) This section applies to a child who is:**

(1) adjudicated a child in need of services under IC 31-34;

(2) a party in a pending child in need of services proceeding under the jurisdiction of a juvenile court;

(3) receiving services for which payment has been made by the department under a case plan and a dispositional decree in the child in need of services proceeding; and

(4) placed in a secure detention facility by order of a juvenile court, based on a determination by the juvenile court that the child committed, or that probable cause exists to believe that the child committed, a delinquent act described in IC 31-37-1-2 at a time after adjudication in the child in need of services case.

(b) The department may, by agreement with the probation office of the juvenile court in which the delinquency case is pending, pay the cost of specified services for a child described in subsection (a), during the time the child is placed in a secure detention facility.

(c) An agreement under this section must specify:

(1) the particular services that will be paid by the department during the time the child is placed in a secure detention facility;

(2) the term of the agreement;

(3) any procedure or limitations relating to amendment or extension of the agreement; and

(4) any other provision that the parties consider necessary or appropriate.

(d) The child's case plan in a child in need of services case, as prepared and approved by the department under IC 31-34-15, shall be attached to and made a part of the agreement.

(e) An agreement under this section:

(1) shall be signed by:

(A) the director of the department; and

(B) the judge of the juvenile court that ordered or approved

placement of the child in the secure detention facility; and

(2) may not be considered to be a contract for purposes of IC 4-13-2.

SECTION 667. IC 31-40-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) A parent or guardian of the estate of:

(1) a child adjudicated a delinquent child or a child in need of services; **or**

(2) a participant in a program of informal adjustment approved by a juvenile court under IC 31-34-8 or IC 31-37-9;

is financially responsible as provided in this chapter (or IC 31-6-4-18(e) before its repeal) for any services ~~ordered by the court.~~ **provided by or through the department.**

(b) Each ~~parent of a child alleged to be a child in need of services or alleged to be a delinquent child~~ **person described in subsection (a)** shall, before a ~~dispositional~~ hearing **under subsection (c) concerning payment or reimbursement of costs,** furnish the court **and the department** with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) At:

(1) a detention hearing;

(2) a hearing that is held after the payment of costs by ~~a county~~ **the department** under section 2 of this chapter (or IC 31-6-4-18(b) before its repeal);

(3) the dispositional hearing; or

(4) any other hearing to consider modification of a dispositional decree;

the juvenile court shall order the child's parents or the guardian of the child's estate to pay for, or reimburse the ~~county~~ **department** for the cost of services provided to the child or the parent or guardian unless the court ~~finds~~ **makes a specific finding** that the parent or guardian is unable to pay or that justice would not be served by ordering payment from the parent or guardian.

SECTION 668. IC 31-40-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. The parent or guardian of the estate of any child returned to Indiana under the interstate compact on juveniles under IC 31-37-23 shall reimburse the ~~county~~ **department** for all costs involved in returning the child that the court orders the parent or guardian to pay under section 3 of this chapter (or

IC 31-6-4-18(e) before its repeal) whether or not the child has been adjudicated a delinquent child or a child in need of services.

SECTION 669. IC 31-40-1-5, AS AMENDED BY P.L.145-2006, SECTION 362, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) This section applies whenever the court ~~orders or~~ approves removal of a child from the home of a child's parent or guardian and ~~placement of~~ **the department places** the child in a child caring institution, ~~(as defined in IC 31-9-2-16.7),~~ a foster family home, ~~(as defined in IC 31-9-2-46.9),~~ **a group home,** or the home of a relative of the child that is not a foster family home.

(b) If an existing support order is in effect, the **juvenile** court shall order the support payments to be assigned to the ~~county office~~ **department** for the duration of the placement out of the home of the child's parent or guardian. The **juvenile** court shall notify the court that:

(1) entered the existing support order; or

(2) had jurisdiction, immediately before the placement, to modify or enforce the existing support order;

of the assignment and assumption of jurisdiction by the juvenile court under this section.

(c) If an existing support order is not in effect, the court shall do the following:

(1) Include in the order for ~~removal or~~ **out-of-home** placement of the child an assignment to the ~~county office,~~ **department** or confirmation of an assignment that occurs or is required under applicable federal law, of any rights to support, including support for the cost of any medical care payable by the state under IC 12-15, from any parent or guardian who has a legal obligation to support the child.

(2) Order support paid to the ~~county office~~ **department** by each of the child's parents or the guardians of the child's estate to be based on child support guidelines adopted by the Indiana supreme court and for the duration of the placement of the child out of the home of the child's parent or guardian, unless:

(A) the court finds that entry of an order based on the child support guidelines would be unjust or inappropriate considering the best interests of the child and other necessary obligations of the child's family; or

(B) the ~~county office~~ **department** does not make foster care maintenance payments to the custodian of the child. For purposes of this clause, "foster care maintenance payments" means any

payments for the cost of (in whole or in part) ~~and the cost of~~ providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable amounts for travel to the child's home for visitation. In the case of a child caring institution, the term also includes the reasonable costs of administration and operation of the institution as are necessary to provide the items described in this clause.

(3) If the court:

(A) does not enter a support order; or

(B) enters an order that is not based on the child support guidelines;

the court shall make findings as required by 45 CFR 302.56(g).

(d) Payments in accordance with a support order assigned under subsection (b) or entered under subsection (c) (or IC 31-6-4-18(f) before its repeal) shall be paid through the clerk of the circuit court as trustee for remittance to the ~~county office.~~ **department.**

(e) The Title IV-D agency shall establish, modify, or enforce a support order assigned or entered by a court under this section in accordance with IC 31-25-3, IC 31-25-4, and 42 U.S.C. 654. The ~~county office~~ **department** shall, if requested, assist the Title IV-D agency in performing its duties under this subsection.

(f) If the juvenile court terminates placement of a child out of the home of the child's parent or guardian, the court shall:

(1) notify the court that:

(A) entered a support order assigned to the ~~county office~~ **department** under subsection (b); or

(B) had jurisdiction, immediately before the placement, to modify or enforce the existing support order;

of the termination of jurisdiction of the juvenile court with respect to the support order;

(2) terminate a support order entered under subsection (c) that requires payment of support by a custodial parent or guardian of the child, with respect to support obligations that accrue after termination of the placement; or

(3) continue in effect, subject to modification or enforcement by a court having jurisdiction over the obligor, a support order entered under subsection (c) that requires payment of support by a noncustodial parent or guardian of the estate of the child.

(g) The court may at or after a hearing described in section 3 of this

chapter order the child's parent or the guardian of the child's estate to reimburse the ~~county office~~ **department** for all or any portion of the expenses for services provided to or for the benefit of the child that are paid ~~from the county family and children's fund~~ **by the department** during the placement of the child out of the home of the parent or guardian, in addition to amounts reimbursed through payments in accordance with a support order assigned or entered as provided in this section, subject to applicable federal law.

SECTION 670. IC 31-40-1-6, AS AMENDED BY P.L.145-2006, SECTION 363, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) The department ~~with the approval of the county fiscal body,~~ may contract with any of the following, on terms and conditions with respect to compensation and payment or reimbursement of expenses as the department may determine, for the enforcement and collection of any parental reimbursement obligation established by order entered by the court under section 3 or 5(g) of this chapter:

(1) The prosecuting attorney of the county ~~that paid the cost of the services ordered by the court, as provided in section 2 of this chapter.~~ **in which the juvenile court that ordered or approved the services is located or in which the obligor resides.**

(2) An attorney ~~for the department on behalf of the county office that paid the cost of services ordered by the court,~~ **licensed to practice law in Indiana,** if the attorney is not an employee of the ~~county office or the~~ department.

~~(3) An attorney licensed to practice law in Indiana.~~

(b) A contract entered into under this section is subject to approval under IC 4-13-2-14.1.

(c) Any fee payable to a prosecuting attorney under a contract under subsection (a)(1) shall be deposited in the county general fund and credited to a separate account identified as the prosecuting attorney's child services collections account. The prosecuting attorney may expend funds credited to the prosecuting attorney's child services collections account, without appropriation, only for the purpose of supporting and enhancing the functions of the prosecuting attorney in enforcement and collection of parental obligations to reimburse the ~~county family and children's fund.~~ **department.**

SECTION 671. IC 31-40-1-7, AS AMENDED BY P.L.145-2006, SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. ~~(a)~~ Amounts received as payment of support or reimbursement of the cost of services paid as provided in this chapter

shall be distributed in the following manner:

(1) If any part of the cost of services was paid from federal funds under Title IV Part E of the Social Security Act (42 U.S.C. 671 et seq.), the amounts received shall first be applied as provided in 42 U.S.C. 657 and 45 CFR 302.52.

(2) All amounts remaining after the distributions required by subdivision (1) shall be deposited in the ~~family and children's~~ **state general** fund. ~~(established by IC 12-19-7-3) of the county that paid the cost of the services.~~

~~(b) Any money deposited in a county family and children's fund under this section shall be reported to the department. in the form and manner prescribed by the department, and shall be applied to the child services budget compiled and adopted by the county director for the next state fiscal year, in accordance with IC 12-19-7-6.~~

SECTION 672. IC 31-40-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. If the parent or guardian of the estate:

(1) defaults in reimbursing the county **or department, as ordered by the juvenile court;** or

(2) fails to pay a fee authorized by this article;

the juvenile court may find the parent or guardian in contempt and enter judgment for the amount due.

SECTION 673. IC 32-21-2-13, AS AMENDED BY P.L.219-2007, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) Except as provided in subsection (c), if the auditor of the county or the township assessor **(if any)** under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

(1) The number of acres in each new tax parcel being created.

(2) The existence or absence of improvements on each new tax parcel being created.

(3) The location within the original tract of each new tax parcel being created.

(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

(c) If the duties of the township assessor have been transferred to the

county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 674. IC 32-28-3-1, AS AMENDED BY P.L.219-2007, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure;

(2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly:

(1) upon the house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation shall be a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

(4) material; or

(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) or (c) is in failing circumstances, the claims described in this section shall be preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract:

(1) for the construction, alteration, or repair of a Class 2 structure (as defined in IC 22-12-1-5);

(2) for the construction, alteration, or repair of an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);

(3) for the construction, alteration, or repair of property that is:

(A) owned, operated, managed, or controlled by a:

(i) public utility (as defined in IC 8-1-2-1);

(ii) municipally owned utility (as defined in IC 8-1-2-1);

(iii) joint agency (as defined in IC 8-1-2.2-2);

(iv) rural electric membership corporation formed under IC 8-1-13-4;

(v) rural telephone cooperative corporation formed under IC 8-1-17; or

(vi) not-for-profit utility (as defined in IC 8-1-2-125);

regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; or

(4) to prepare property for Class 2 residential construction;

may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:

(1) be in writing;

(2) contain specific reference by legal description of the real estate to be improved;

(3) be acknowledged as provided in the case of deeds; and

(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

(1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;

(2) index the contract in the name of the:

(A) contractor; and

(B) owner;

in books kept for that purpose; and

(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or

(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:

(A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or

(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the township assessor **(if any)** or the county assessor;

with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and

(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 675. IC 32-28-3-3, AS AMENDED BY P.L.219-2007, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Except as provided in subsection (b), a person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). A person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(c) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

(1) the amount claimed;

(2) the name and address of the claimant;

(3) the owner's:

(A) name; and

(B) latest address as shown on the property tax records of the county; and

(4) the:

(A) legal description; and

(B) street and number, if any;

of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks, or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the township assessor **(if any)** or the county assessor at the time of filing of the notice of intention to hold a lien.

(d) The recorder shall:

(1) mail, first class, one (1) of the duplicates of the statement and notice of intention to hold a lien to the owner named in the statement and notice not later than three (3) business days after recordation;

(2) post records as to the date of the mailing; and

(3) collect a fee of two dollars ($2) from the lien claimant for each statement and notice that is mailed.

The statement and notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien upon the property.

SECTION 676. IC 33-37-8-5, AS AMENDED BY P.L.60-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) A county user fee fund is established in

each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under ~~IC 31-34-8-8 or~~ IC 31-37-9-9:

(1) The pretrial diversion program fee.

(2) The informal adjustment program fee.

(3) The marijuana eradication program fee.

(4) The alcohol and drug services program fee.

(5) The law enforcement continuing education program fee.

(6) The deferral program fee.

(7) The jury fee.

(8) The drug court fee.

(9) The reentry court fee.

(c) All of the jury fee and two dollars ($2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11.

SECTION 677. IC 33-38-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The Indiana judicial center shall maintain a roster of in-state facilities that have the expertise to provide child services (as defined in ~~IC 12-19-7-1)~~ **IC 31-9-2-17.8)** in a residential setting to:

(1) children in need of services (as described in IC 31-34-1); or

(2) delinquent children (as described in IC 31-37-1 and IC 31-37-2).

(b) The roster under subsection (a) must include the information necessary to allow a court having juvenile jurisdiction to select an in-state placement of a child instead of placing the child in an out-of-state facility under IC 31-34 or IC 31-37. The roster must include at least the following information:

(1) Name, address, and telephone number of each facility.

(2) Owner and contact person for each facility.

(3) Description of the child services that each facility provides and any limitations that the facility imposes on acceptance of a child placed by a juvenile court.

(4) Number of children that each facility can serve on a residential basis.

(5) Number of residential openings at each facility.

(c) The Indiana judicial center shall revise the information in the roster at least monthly.

(d) The Indiana judicial center shall make the information in the roster

readily available to courts with juvenile jurisdiction.

SECTION 678. IC 34-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** An information described in IC 34-17-1-1 may be filed:

(1) by the prosecuting attorney in the circuit court of the proper county, upon the prosecuting attorney's own relation, whenever the prosecuting attorney:

(A) determines it to be the prosecuting attorney's duty to do so; or

(B) is directed by the court or other competent authority; or

(2) by any other person on the person's own relation, whenever the person claims an interest in the office, franchise, or corporation that is the subject of the information.

(b) The prosecuting attorney shall file an information in the circuit court of the county against the county assessor or a township assessor under IC 34-17-1-1(2) if:

(1) the board of county commissioners adopts an ordinance under IC 6-1.1-4-31(f); or

(2) the city-county council adopts an ordinance under IC 6-1.1-4-31(g).

SECTION 679. IC 34-30-2-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46. IC 12-19-2-2 (Concerning ~~members of~~ the ~~state board,~~ officers and **other** employees of the ~~state and county departments of public welfare).~~ **division of family resources, including the local offices of the division of family resources.)**

SECTION 680. IC 34-30-2-133.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 133.6. IC 31-25-2-2.5 (Concerning the officers and other employees of the department of child services).**

SECTION 681. IC 35-41-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 3.1. "Apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days.**

SECTION 682. IC 35-41-1-10.5, AS AMENDED BY P.L.26-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10.5. "Family housing complex" means a building or series of buildings:

(1) that contains at least twelve (12) dwelling units:

(A) where children are domiciled or are likely to be domiciled; and

(B) that are owned by a governmental unit or political subdivision;

(2) that is operated as a hotel or motel (as described in IC 22-11-18-1);

(3) that is operated as an apartment complex; ~~(as defined in IC 6-1.1-20.6-1);~~ or

(4) that contains subsidized housing.

SECTION 683. IC 35-46-1-9, AS AMENDED BY P.L.146-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), a person who, with respect to an adoption, transfers or receives any property in connection with the waiver of parental rights, the termination of parental rights, the consent to adoption, or the petition for adoption commits profiting from an adoption, a Class D felony.

(b) This section does not apply to the transfer or receipt of:

(1) reasonable attorney's fees;

(2) hospital and medical expenses concerning childbirth and pregnancy incurred by the adopted person's birth mother;

(3) reasonable charges and fees levied by a child placing agency licensed under IC 31-27 or ~~by a county office or~~ the department of child services;

(4) reasonable expenses for psychological counseling relating to adoption incurred by the adopted person's birth parents;

(5) reasonable costs of housing, utilities, and phone service for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth;

(6) reasonable costs of maternity clothing for the adopted person's birth mother;

(7) reasonable travel expenses incurred by the adopted person's birth mother that relate to the pregnancy or adoption;

(8) any additional itemized necessary living expenses for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth, not listed in subdivisions (5) through (7) in an amount not to exceed one thousand dollars ($1,000); or

(9) other charges and fees approved by the court supervising the adoption, including reimbursement of not more than actual wages

lost as a result of the inability of the adopted person's birth mother to work at her regular, existing employment due to a medical condition, excluding a psychological condition, if:

(A) the attending physician of the adopted person's birth mother has ordered or recommended that the adopted person's birth mother discontinue her employment; and

(B) the medical condition and its direct relationship to the pregnancy of the adopted person's birth mother are documented by her attending physician.

In determining the amount of reimbursable lost wages, if any, that are reasonably payable to the adopted person's birth mother under subdivision (9), the court shall offset against the reimbursable lost wages any amounts paid to the adopted person's birth mother under subdivisions (5) and (8) and any unemployment compensation received by or owed to the adopted person's birth mother.

(c) Except as provided in this subsection, payments made under subsection (b)(5) through (b)(9) may not exceed three thousand dollars ($3,000) and must be disclosed to the court supervising the adoption. The amounts paid under subsection (b)(5) through (b)(9) may exceed three thousand dollars ($3,000) to the extent that a court in Indiana with jurisdiction over the child who is the subject of the adoption approves the expenses after determining that:

(1) the expenses are not being offered as an inducement to proceed with an adoption; and

(2) failure to make the payments may seriously jeopardize the health of either the child or the mother of the child and the direct relationship is documented by a licensed social worker or the attending physician.

(d) The payment limitation under subsection (c) applies to the total amount paid under subsection (b)(5) through (b)(9) in connection with an adoption from all prospective adoptive parents, attorneys, and licensed child placing agencies.

(e) An attorney or licensed child placing agency shall inform a birth mother of the penalties for committing adoption deception under section 9.5 of this chapter before the attorney or agency transfers a payment for adoption related expenses under subsection (b) in relation to the birth mother.

(f) The limitations in this section apply regardless of the state or country in which the adoption is finalized.

SECTION 684. IC 35-46-1-12, AS AMENDED BY P.L.145-2006,

SECTION 372, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in subsection (b), a person who recklessly, knowingly, or intentionally exerts unauthorized use of the personal services or the property of:

(1) an endangered adult; or

(2) a dependent eighteen (18) years of age or older;

for the person's own profit or advantage or for the profit or advantage of another person commits exploitation of a dependent or an endangered adult, a Class A misdemeanor.

(b) The offense described in subsection (a) is a Class D felony if:

(1) the fair market value of the personal services or property is more than ten thousand dollars ($10,000); or

(2) the endangered adult or dependent is at least sixty (60) years of age.

(c) Except as provided in subsection (d), a person who recklessly, knowingly, or intentionally deprives an endangered adult or a dependent of the proceeds of the endangered adult's or the dependent's benefits under the Social Security Act or other retirement program that the division of family resources ~~or county office of family and children~~ has budgeted for the endangered adult's or dependent's health care commits financial exploitation of an endangered adult or a dependent, a Class A misdemeanor.

(d) The offense described in subsection (c) is a Class D felony if:

(1) the amount of the proceeds is more than ten thousand dollars ($10,000); or

(2) the endangered adult or dependent is at least sixty (60) years of age.

(e) It is not a defense to an offense committed under subsection (b)(2) or (d)(2) that the accused person reasonably believed that the endangered adult or dependent was less than sixty (60) years of age at the time of the offense.

(f) It is a defense to an offense committed under subsection (a), (b), or (c) if the accused person:

(1) has been granted a durable power of attorney or has been appointed a legal guardian to manage the affairs of an endangered adult or a dependent; and

(2) was acting within the scope of the accused person's fiduciary responsibility.

SECTION 685. IC 35-46-1-22, AS ADDED BY P.L.146-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 22. (a) As used in this section, "adoption services" means at least one (1) of the following services that is provided for compensation, an item of value, or reimbursement, either directly or indirectly, and provided either before or after the services are rendered:

(1) Arranging for the placement of a child.

(2) Identifying a child for adoption.

(3) Matching adoptive parents with biological parents.

(4) Arranging or facilitating an adoption.

(5) Taking or acknowledging consents or surrenders for termination of parental rights for adoption purposes.

(6) Performing background studies on:

(A) a child who is going to be adopted; or

(B) adoptive parents.

(7) Making determinations concerning the best interests of a child and the appropriateness in placing the child for adoption.

(8) Postplacement monitoring of a child before the child is adopted.

(b) As used in this section, the term "adoption services" does not include the following:

(1) Legal services provided by an attorney licensed in Indiana.

(2) Adoption related services provided by a governmental entity or a person appointed to perform an investigation by the court.

(3) General education and training on adoption issues.

(4) Postadoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

(c) This section does not apply to the following persons:

(1) The department of child services, an agency or person authorized to act on behalf of the department of child services, or a similar agency **or county office with similar responsibilities** in another state.

(2) The division of family resources, an agency or person authorized to act on behalf of the division of family resources, or a similar agency **or county office with similar responsibilities** in another state.

~~(3) A county office of family and children in Indiana or a similar county office in another state.~~

~~(4)~~ **(3)** A child placing agency licensed under the laws of Indiana or another state.

~~(5)~~ **(4)** An attorney licensed to practice law in Indiana or another state.

~~(6)~~ **(5)** A prospective biological parent or adoptive parent acting on the individual's own behalf.

(d) A person who knowingly or intentionally provides, engages in, or facilitates adoption services to a birth parent or prospective adoptive parent who resides in Indiana commits unauthorized adoption facilitation, a Class A misdemeanor.

SECTION 686. IC 36-1-8-14.2, AS AMENDED BY P.L.219-2007, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14.2. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7.

(d) Subject to the approval of a property owner, the governing body of a political subdivision may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7, if the improvements that qualify the real property for an exemption were begun or acquired after December 31, 2001. The ordinance remains in full force and effect until repealed or modified by the governing body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied by the governing body for the political subdivision upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). Except as provided in subsection (j), the township ~~assessors~~ **assessor, or the county assessor if there is no township assessor for the township,** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the unit's

affordable housing fund established under IC 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(i) This section does not apply to a county that contains a consolidated city or to a political subdivision of the county.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 687. IC 36-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Before the Thursday after the first Monday in August of each year, each county officer and township assessor **(if any)** shall prepare an itemized estimate of the amount of money required for ~~his~~ **the officer's or assessor's** office for the next calendar year. Each budget estimate under this section must include:

(1) the compensation of the officer;

(2) the expense of employing deputies;

(3) the expense of office supplies, itemized by the quantity and probable cost of each kind of supplies;

(4) the expense of litigation for the office; and

(5) other expenses of the office, specifically itemized;

that are payable out of the county treasury.

(b) If all or part of the expenses of a county office may be paid out of the county treasury, but only under an order of the county executive to that effect, the expenses of the office shall be included in the officer's budget estimate and may not be included in the county executive's budget estimate.

SECTION 688. IC 36-2-6-4.5, AS AMENDED BY P.L.145-2006, SECTION 373, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.5. (a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in an ordinance.

~~(14) Expenses incurred under a procurement contract under IC 31-25-2-17.~~

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.

SECTION 689. IC 36-2-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The county executive or a court may not make an allowance to a county officer for:

(1) services rendered in a criminal action;

(2) services rendered in a civil action; or

(3) extra services rendered in ~~his~~ **the county officer's** capacity as a county officer.

(b) The county executive may make an allowance to the clerk of the circuit court, county auditor, county treasurer, county sheriff, township assessor **(if any),** or county assessor, or to any of those officers' employees, only if:

(1) the allowance is specifically required by law; or

(2) the county executive finds, on the record, that the allowance is

necessary in the public interest.

(c) A member of the county executive who recklessly violates subsection (b) commits a Class C misdemeanor and forfeits ~~his~~ **the member's** office.

SECTION 690. IC 36-2-6-22, AS AMENDED BY P.L.219-2007, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is not located in a county containing a consolidated city.

(d) Subject to the approval of a property owner, the fiscal body of a county may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed in the same manner as property taxes and shall be based on the assessed value of the real property described in subsection (d). Except as provided in subsection (i), the township ~~assessors~~ **assessor, or the county assessor if there is no township assessor for the township,** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be distributed in the same manner as if they were property taxes being distributed to taxing units in the county.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be

treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(i) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 691. IC 36-2-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The county fiscal body may grant to the county assessor, in addition to the compensation fixed under IC 36-2-5, a per diem for each day that the assessor is engaged in general reassessment activities. ~~including service on the county land valuation commission.~~ This section applies regardless of whether professional assessing services are provided under a contract to one (1) or more townships in the county.

SECTION 692. IC 36-2-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a) Subject to subsection (b),** the assessor shall keep ~~his~~ **the assessor's** office in a building provided at the county seat by the county executive. ~~He~~ **The assessor** shall keep ~~his~~ **the** office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, ~~he~~ **the assessor** may close ~~his~~ **the** office on days specified by the county executive according to custom and practice of the county.

(b) After June 30, 2008, the county assessor may establish one (1) or more satellite offices in the county.

SECTION 693. IC 36-2-15-5, AS AMENDED BY HEA1137-2008 SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(5) In:

(A) a ~~county~~ **township** in which the transfer of duties **of the elected township assessor** is required by subsection ~~(c);~~ **(c); or (B) a township in which the duties relating to the assessment of tangible property are not required to be performed by a township assessor elected under IC 36-6-5;**

performance of the assessment duties prescribed by IC 6-1.1.

~~(b) The county assessor shall perform the functions of an assessing~~

~~official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:~~

~~(1) fails to make a report that is required by law;~~

~~(2) fails to deliver a property tax record to the appropriate officer or board;~~

~~(3) fails to deliver an assessment to the county assessor; or~~

~~(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;~~

~~within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.~~

~~(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:~~

~~(1) the county assessor; or~~

~~(2) another township assessor in the county;~~

~~to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.~~

~~(d)~~ **(b)** A transfer of duties between assessors ~~under subsection (c)~~ does not affect:

(1) any assessment, assessment appeal, or other official action made by an assessor before the transfer; or

(2) any pending action against, or the rights of any party that may possess a legal claim against, an assessor that is not described in subdivision (1).

Any assessment, assessment appeal, or other official action of an assessor made by the assessor within the scope of the assessor's official duties before the transfer is considered as having been made by the assessor to whom the duties are transferred.

~~(e)~~ **(c)** If:

(1) for a particular general election after June 30, 2008, the person elected to the office of township assessor ~~or the office of township trustee-assessor~~ has not attained the certification of a level two assessor-appraiser; **or**

(2) for a particular general election after January 1, 2012, the person elected to the office of township assessor has not attained the certification of a level three assessor-appraiser;

as provided in IC 3-8-1-23.6 before the date the term of office begins, the assessment duties prescribed by IC 6-1.1 that would otherwise be

performed in the township by the township assessor ~~or township trustee-assessor~~ are transferred to the county assessor on that date. If assessment duties in a township are transferred to the county assessor under this subsection, those assessment duties are transferred back to the township assessor ~~or township trustee-assessor (as appropriate)~~ if at a later election a person who has attained the **required level of** certification ~~of a level two assessor-appraiser as provided in IC 3-8-1-23.6~~ **referred to in subdivision (1) or (2)** is elected to the office of township assessor. ~~or the office of township trustee-assessor.~~

~~(f)~~ **(d)** If assessment duties in a township are transferred to the county assessor under subsection ~~(c):~~ **(c),**

~~(1)~~ the office of elected township assessor remains vacant for the period during which the assessment duties prescribed by IC 6-1.1 are transferred to the county assessor. ~~and~~

~~(2) the office of township trustee remains in place for the purpose of carrying out all functions of the office other than assessment duties prescribed by IC 6-1.1.~~

(e) A referendum shall be held under sections 7.4 through 11 of this chapter in each township in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000) to determine whether to transfer to the county assessor the assessment duties prescribed by IC 6-1.1 that would otherwise be performed by the elected township assessor of the township.

SECTION 694. IC 36-2-15-7.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.4. (a) Assessment duties are transferred to the county assessor as described in section 5(e) of this chapter only if a majority of the individuals in the township who vote in a referendum that is conducted in accordance with this section and sections 8 through 11 of this chapter approves the transfer.**

(b) The question to be submitted to the voters in the referendum must read as follows:

"Should the assessing duties of the elected township assessor in the township be transferred to the county assessor?".

SECTION 695. IC 36-2-15-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. (a) The county legislative body shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum under this chapter to the county election board.**

(b) Each county clerk shall, upon receiving the question certified

by the county legislative body under subsection (a), call a meeting of the county election board to make arrangements for the referendum.

(c) The referendum shall be held in the general election in 2008.

(d) The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum.

(e) Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1.

SECTION 696. IC 36-2-15-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. Each county election board shall cause:**

(1) the question certified to the circuit court clerk by the county legislative body to be placed on the ballot in the form prescribed by IC 3-10-9-4; and

(2) an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum under this chapter is to be held.

SECTION 697. IC 36-2-15-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. The individuals entitled to vote in a referendum under this chapter are all the registered voters resident in the township in which the referendum is held.**

SECTION 698. IC 36-2-15-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11. (a) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum under this chapter and shall certify those two (2) totals to the county election board of the county. The circuit court clerk of the county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the county legislative body. Upon receiving the certification of all the votes cast in the referendum, the county legislative body shall promptly notify the department of local government finance of the result of the referendum. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question:**

(1) the county legislative body shall promptly notify:

(A) the county assessor;

(B) the elected township assessor in the township; and

(C) each candidate in an election described in subsection (b); of the results of the referendum; and

(2) with respect to a particular elected township assessor in the county, the assessment duties prescribed by IC 6-1.1 are transferred to the county assessor on January 1, 2009.

(b) If:

(1) an election is held in the general election in 2008 of an elected township assessor; and

(2) a majority of the individuals who voted in the referendum held under this chapter voted "yes" on the referendum question; the results of the election of the elected township assessor are nullified.

SECTION 699. IC 36-2-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a)** The county assessor may appoint the number of full-time or part-time deputies and employees authorized by the county fiscal body.

(b) After June 30, 2009, an employee of the county assessor who performs real property assessing duties must have attained the level of certification under IC 6-1.1-35.5 that the county assessor is required to attain under IC 3-8-1-23.

SECTION 700. IC 36-2-19-7, AS AMENDED BY P.L.219-2007, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsection (b), in a ~~township~~ **county** in which IC 6-1.1-5-9 or IC 6-1.1-5-9.1 applies, the county surveyor shall file a duplicate copy of any plat described in section 4 of this chapter with the township assessor **(if any).**

(b) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 701. IC 36-3-2-10, AS AMENDED BY P.L.219-2007, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The general assembly finds the following:

(1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.

(2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect

payments in lieu of taxes from these public entities.

(3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Personal property.

(6) Property taxation.

(7) Tangible property.

(8) Township assessor.

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A capital improvement board of managers under IC 36-10-9.

(3) A building authority operating under IC 36-9-13.

(4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

(1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;

(2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or

(3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (e). Except as provided in subsection (l), the township ~~assessors~~ **assessor, or the county assessor if there is no township assessor for the township,**

shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS shall be deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

(1) operating and maintenance expenses;

(2) payment of principal and interest on any bonded indebtedness;

(3) depreciation or replacement fund expenses;

(4) bond and interest sinking fund expenses; and

(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

(l) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 702. IC 36-3-2-11, AS AMENDED BY P.L.219-2007, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real

property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

(1) agreed upon by the property owner and the legislative body of the consolidated city;

(2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and

(3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). Except as provided in subsection (i), the township ~~assessors~~ **assessor, or the county assessor if there is no township assessor for the township,** shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(i) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 703. IC 36-3-5-8, AS AMENDED BY P.L.219-2007, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) This section applies whenever a special taxing

district of the consolidated city has the power to issue bonds, notes, or warrants.

(b) Before any bonds, notes, or warrants of a special taxing district may be issued, the issue must be approved by resolution of the legislative body of the consolidated city.

(c) Any bonds of a special taxing district must be issued in the manner prescribed by statute for that district, and the board of the department having jurisdiction over the district shall:

(1) hold all required hearings;

(2) adopt all necessary resolutions; and

(3) appropriate the proceeds of the bonds;

in that manner. However, the legislative body shall levy each year the special tax required to pay the principal of and interest on the bonds and any bank paying charges.

(d) Notwithstanding any other statute, bonds of a special taxing district may:

(1) be dated;

(2) be issued in any denomination;

(3) **except as otherwise provided by IC 5-1-14-10,** mature at any time or times not exceeding fifty (50) years after their date; and

(4) be payable at any bank or banks;

as determined by the board. The interest rate or rates that the bonds will bear must be determined by bidding, notwithstanding IC 5-1-11-3.

(e) Bonds of a special taxing district are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to **the following:**

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.

(2) The giving of notice of a hearing on the appropriation of the proceeds of bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds ~~and~~ **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) The sale of bonds at public sale.

(7) The maximum term or repayment period provided by IC 5-1-14-10.

SECTION 704. IC 36-3-6-4, AS AMENDED BY P.L.227-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each township assessor **(if any),** elected county officer, or head of a county agency.

(3) The county clerk, for each court ~~of which he is~~ **the** clerk **serves.**

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate the officer prepares stating that in the officer's opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers and county officers shall be submitted to the controller.

(g) The controller shall also prepare an itemized estimate of city and county expenditures for other purposes above the money proposed to be used by the city departments and county officers and agencies.

SECTION 705. IC 36-3-6-9, AS AMENDED BY P.L.1-2006, SECTION 561, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The city-county legislative body shall review the proposed operating and maintenance budgets and tax levies and adopt final operating and maintenance budgets and tax levies for each of the following entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A public library operating under IC 36-12.

(3) A capital improvement board of managers operating under IC 36-10.

(4) A public transportation corporation operating under IC 36-9-4.

(5) A health and hospital corporation established under IC 16-22-8.

(6) Any other taxing unit (as defined in IC 6-1.1-1-21) that is located in the county and has a governing body that is not comprised of a majority of officials who are elected to serve on the governing body.

Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

(b) The board of each entity listed in subsection (a) shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.

(c) The city-county legislative body ~~may~~ **shall** review the issuance of bonds of an entity listed in subsection (a). ~~but~~ Approval of the city-county legislative body is ~~not~~ required for the issuance of bonds. The city-county legislative body may not reduce or modify a budget or tax levy of an entity listed in subsection (a) in a manner that would:

(1) limit or restrict the rights vested in the entity to fulfill the terms of any agreement made with the holders of the entity's bonds; or

(2) in any way impair the rights or remedies of the holders of the entity's bonds.

(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) that is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body for approval.

~~(e) The city-county legislative body may review and modify the operating and maintenance budgets and the tax levies of a health and hospital corporation operating under IC 16-22-8. If the total of all proposed property tax levies for the health and hospital corporation for the ensuing calendar year is more than five percent (5%) greater than the total of all property tax levies for the health and hospital corporation for the current calendar year, the city-county legislative body shall review the proposed budget and the tax levies of the health and hospital corporation and shall adopt the final budget and tax levies for the health and hospital corporation. Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase the health and hospital corporation's proposed operating and maintenance budget or tax levy under this section. The board of the health and hospital corporation~~

~~shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.~~

SECTION 706. IC 36-3-7-5, AS AMENDED BY P.L.219-2007, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when evidenced on the tax duplicate in the office of the treasurer of the county.

(b) Liens created when the city enters upon property to make improvements to bring it into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor, after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must state the name of the owner as it appears on the township assessor's or county assessor's record and a description of the property.

(c) The amount of a lien shall be placed on the tax duplicate by the auditor in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25. ~~However, the amount of the lien is not considered a tax within the meaning of IC 6-1.1-21-2(b) and shall not be included as a part of either a total county tax levy under IC 6-1.1-21-2(g) or the tax liability of a taxpayer under IC 6-1.1-21-5 for purposes of the tax credit computations under IC 6-1.1-21-4 and IC 6-1.1-21-5.~~

SECTION 707. IC 36-5-1-3, AS AMENDED BY P.L.219-2007, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~(a)~~ A petition for incorporation must be accompanied by the following items, to be supplied at the expense of the petitioners:

(1) A survey, certified by a surveyor registered under IC 25-21.5, showing the boundaries of and quantity of land contained in the territory sought to be incorporated.

(2) An enumeration of the territory's residents and landowners and their mailing addresses, completed not more than thirty (30) days before the time of filing of the petition and verified by the persons supplying it.

(3) ~~Except as provided in subsection (b),~~ A statement of the assessed valuation of all real property within the territory, certified by the ~~assessors~~ **township assessor** of the ~~townships~~ **township** in which the territory is located, **or the county assessor if there is no township**

assessor for the township.

(4) A statement of the services to be provided to the residents of the proposed town and the approximate times at which they are to be established.

(5) A statement of the estimated cost of the services to be provided and the proposed tax rate for the town.

(6) The name to be given to the proposed town.

~~(b) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.~~

SECTION 708. IC 36-5-2-11, AS AMENDED BY P.L.219-2007, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) The legislative body may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not issue bonds to procure money to pay current expenses.

(b) Bonds issued under this section are payable in the amounts and at the times determined by the legislative body.

(c) Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to **the following:**

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.

(2) The giving of notice of a hearing on the appropriation of the proceeds of bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds ~~and~~ **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) The sale of bonds at public sale for not less than their par value.

(d) The legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the town, and the total

amount of outstanding loans under this subsection may not exceed five percent (5%) of the town's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made as follows:

(1) The ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans.

(2) The loans must be evidenced by notes of the town in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

(3) The interest accruing on the notes to the date of maturity may be added to and included in their face value or be made payable periodically, as provided in the ordinance.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

SECTION 709. IC 36-6-4-3, AS AMENDED BY P.L.1-2006, SECTION 562, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all township property interests.

(3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.

(5) Receive and pay out township funds.

(6) Examine and settle all accounts and demands chargeable against the township.

(7) Administer township assistance under IC 12-20 and IC 12-30-4.

(8) Perform the duties of fence viewer under IC 32-26.

~~(9) Act as township assessor when required by IC 36-6-5.~~

~~(10)~~ **(9)** Provide and maintain cemeteries under IC 23-14.

~~(11)~~ **(10)** Provide fire protection under IC 36-8, except in a township that:

(A) is located in a county having a consolidated city; and

(B) consolidated the township's fire department under IC 36-3-1-6.1.

~~(12)~~ **(11)** File an annual personnel report under IC 5-11-13.

~~(13)~~ **(12)** Provide and maintain township parks and community centers under IC 36-10.

~~(14)~~ **(13)** Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

~~(15)~~ **(14)** Provide insulin to the poor under IC 12-20-16.

~~(16)~~ **(15)** Perform other duties prescribed by statute.

SECTION 710. IC 36-6-5-1, AS AMENDED BY HEA 1137-2008, SECTION 262, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~Except as provided in subsection (f),~~ **Subject to subsection (g), before 2009,** a township assessor shall be elected under IC 3-10-2-13 by the voters of each township:

(1) having:

~~(1)~~ **(A)** a population of more than eight thousand (8,000); or

~~(2)~~ **(B)** an elected township assessor or the authority to elect a township assessor before January 1, 1979; **and**

(2) in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).

(b) ~~Except as provided in subsection (f),~~ **Subject to subsection (g), before 2009,** a township assessor shall be elected under IC 3-10-2-14 in each township:

(1) having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

~~(1)~~ **(A)** by resolution, declares that the office of township assessor is necessary; and

~~(2)~~ **(B)** the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2; **and**

(2) in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000)

(c) ~~Except as provided in subsection (f),~~ **Subject to subsection (g),** a township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

(d) Subject to subsection (g), after 2008 a township assessor shall be elected under IC 3-10-2-13 only by the voters of each township in which:

(1) the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000); and

(2) the transfer to the county assessor of the assessment duties prescribed by IC 6-1.1 is disapproved in the referendum under IC 36-2-15.

~~(d)~~ **(e)** The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the

township.

~~(e)~~ **(f)** The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

~~(f)~~ **(g)** A person who runs for the office of township assessor in an election after June 30, 2008, is subject to IC 3-8-1-23.6.

(h) After June 30, 2008, the county assessor shall perform the assessment duties prescribed by IC 6-1.1 in a township in which the number of parcels of real property on January 1, 2008, is less than fifteen thousand (15,000).

SECTION 711. IC 36-6-5-3, AS AMENDED BY P.L.219-2007, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), the assessor shall perform the duties prescribed by statute, including assessment duties prescribed by IC 6-1.1.

(b) Subsection (a) does not apply if the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24 **or IC 36-2-15.**

SECTION 712. IC 36-6-5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. After June 30, 2009, an employee of a township assessor who performs real property assessing duties must have attained the level of certification under IC 6-1.1-35.5 that the township assessor is required to attain under IC 3-8-1-23.6.**

SECTION 713. IC 36-6-6-10, AS AMENDED BY P.L.169-2006, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy **or** an employee ~~or a technical adviser that assists~~ **of** a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;

(2) wages;

(3) rates of hourly pay; and

(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce

the salary of an elected or appointed official. However, except as provided in subsection ~~(i),~~ **(h),** the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in ~~subsections (c) and (i),~~ **subsection (h),** the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

~~(e) In a township that does not elect a township assessor under IC 36-6-5-1, the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).~~

~~(f)~~ **(e)** If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

~~(g)~~ **(f)** The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

~~(h)~~ **(g)** This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

~~(i)~~ **(h)** In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount.

SECTION 714. IC 36-6-6-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. (a) A special meeting may be held by the legislative body if the executive, the chairman of the legislative body, or a majority of the members of the legislative body issue a written**

notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

(b) The legislative body may consider any matter at a special meeting. However, the only matters that may be acted on at the special meeting are the matters set forth in the notice.

SECTION 715. IC 36-6-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) ~~A special meeting may be held by the legislative body if the executive, the chairman of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.~~

~~(b)~~ At ~~the~~ **any** special meeting, if two (2) or more members give their consent, the legislative body may determine whether there is ~~an~~ **a need for fire and emergency services or other** emergency requiring the expenditure of money not included in the township's budget estimates and levy.

(b) Subject to section 14.5 of this chapter, if the legislative body finds that ~~such an~~ **a need for fire and emergency services or other** emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency.

(c) Notwithstanding IC 36-8-13-4(a), the legislative body may authorize the executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body finds that the emergency requiring the expenditure of money is related to paying the operating expenses of a township fire department or a volunteer fire department. At its next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection.

(d) In determining whether a fire and emergency services need exists requiring the expenditure of money not included in the township's budget estimates and levy, the legislative body and any reviewing authority considering the approval of the additional borrowing shall consider the following factors:

(1) The current and projected certified and noncertified public safety payroll needs of the township.

(2) The current and projected need for fire and emergency services within the jurisdiction served by the township.

(3) Any applicable national standards or recommendations for

the provision of fire protection and emergency services.

(4) Current and projected growth in the number of residents and other citizens served by the township, emergency service runs, certified and noncertified personnel, and other appropriate measures of public safety needs in the jurisdiction served by the township.

(5) Salary comparisons for certified and noncertified public safety personnel in the township and other surrounding or comparable jurisdictions.

(6) Prior annual expenditures for fire and emergency services, including all amounts budgeted under this chapter.

(7) Current and projected growth in the assessed value of property requiring protection in the jurisdiction served by the township.

(8) Other factors directly related to the provision of public safety within the jurisdiction served by the township.

(e) In the event the township received additional funds under this chapter in the immediately preceding budget year for an approved expenditure, any reviewing authority shall take into consideration the use of the funds in the immediately preceding budget year and the continued need for funding the services and operations to be funded with the proceeds of the loan.

SECTION 716. IC 36-6-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If the legislative body finds that an emergency requires the borrowing of money to meet the township's current expenses, it may take out temporary loans in an amount not more than ~~fifty~~ **eighty** percent ~~(50%)~~ **(80%)** of the total anticipated revenue for the remainder of the year in which the loans are taken out.

(b) The legislative body must authorize the temporary loans by a resolution:

(1) stating the nature of the consideration for the loans;

(2) stating the time the loans are payable;

(3) stating the place the loans are payable;

(4) stating a rate of interest;

(5) stating the anticipated revenues on which the loans are based and out of which they are payable; and

(6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans.

(c) The loans must be evidenced by time warrants of the township stating:

(1) the nature of the consideration;

(2) the time payable;

(3) the place payable; and

(4) the anticipated revenues on which they are based and out of which they are payable.

SECTION 717. IC 36-6-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) When performing the real property reassessment duties prescribed by IC 6-1.1-4, a township assessor may receive per diem compensation, in addition to salary, at a rate fixed by the county fiscal body, for each day that ~~he~~ **the assessor** is engaged in reassessment activities. ~~including service on the county land valuation commission.~~

(b) Subsection (a) applies regardless of whether professional assessing services are provided to a township under contract.

SECTION 718. IC 36-7-4-207 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the city legislative body from its membership.

(2) One (1) member appointed by the park board from its membership.

(3) One (1) member or designated representative appointed by the city works board.

(4) The city civil engineer or a qualified assistant appointed by the city civil engineer.

(5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.

(b) ADVISORY. If a city lacks either a park board or a city civil engineer, or both, subsection (a) does not apply. In such a city or in any town, the municipal plan commission consists of seven (7) members, as follows:

(1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.

(2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

(c) AREA. To provide equitable representation of rural and urban

populations, representation on the area plan commission is determined as follows:

(1) Seven (7) representatives from each city having a population of more than one hundred five thousand (105,000).

(2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).

(3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).

(4) Four (4) representatives from each city having a population of not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).

(5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).

(6) Two (2) representatives from each city having a population of less than ten thousand (10,000).

(7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.

(8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 of this chapter.

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.

(d) METRO. The metropolitan development commission consists of nine (9) citizen members, as follows:

(1) Four (4) members, of whom no more than two (2) may be of the same political party, appointed by the executive of the consolidated city.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.

(3) Two (2) members, who must be of different political parties, appointed by the board of commissioners of the county.

(e) METRO. The legislative body of the consolidated city shall appoint an individual to serve as a nonvoting adviser to the metropolitan development commission when the commission is acting as the redevelopment commission of the consolidated city under IC 36-7-15.1. If the duties of the metropolitan development commission under IC 36-7-15.1 are transferred to another entity under IC 36-3-4-23, the individual appointed under this subsection shall serve as a nonvoting adviser to that entity. A nonvoting adviser appointed under this subsection:

(1) must also be a member of the school board of a school corporation that includes all or part of the territory of the consolidated city;

(2) is not considered a member of the metropolitan development commission for purposes of IC 36-7-15.1 but is entitled to attend and participate in the proceedings of all meetings of the metropolitan development commission (or any successor entity designated under IC 36-3-4-23) when it is acting as a redevelopment commission under IC 36-7-15.1;

(3) is not entitled to a salary, per diem, or reimbursement of expenses;

(4) serves for a term of two (2) years and until a successor is appointed; and

(5) serves at the pleasure of the legislative body of the consolidated city.

SECTION 719. IC 36-7-11.2-58, AS AMENDED BY P.L.219-2007, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the Meridian Street and bordering property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of, and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for

whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in:

(1) the offices of the township assessors **(if any);** or

(2) the office of the county assessor;

as of the date of filing are considered determinative of the persons who are owners.

SECTION 720. IC 36-7-11.3-6, AS AMENDED BY P.L.219-2007, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or

(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered

served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The municipal plan commission.

(E) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, the "Occupant" at the address of the primary or secondary property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in:

(i) the offices of the township assessors **(if any);** or

(ii) the office of the county assessor.

(G) The society, to the organization at the latest address as shown in the records of the commission.

SECTION 721. IC 36-7-11.3-52, AS AMENDED BY P.L.219-2007, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 52. (a) A person who has filed a petition under section 50 or 51 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the primary and secondary property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to

build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in:

(1) the offices of the township assessors **(if any);** or

(2) the office of the county assessor;

as of the date of filing are considered determinative of the persons who are owners.

SECTION 722. IC 36-7-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) Bonds issued by a unit under section 25 of this chapter may be issued as serial bonds, term bonds, or a combination of both types. The ordinance of the fiscal body authorizing bonds, notes, or warrants, or the financing agreement or the trust indenture approved by the ordinance, must provide:

(1) the manner of their execution, either by the manual or facsimile signatures of the executive of the unit and the clerk of the fiscal body;

(2) their date;

(3) their term or terms, which may not exceed forty (40) years,

except as otherwise provided by subsection (e);

(4) their maximum interest rate if fixed rates are used or the manner in which the interest rate will be determined if variable or adjustable rates are used;

(5) their denominations;

(6) their form, either coupon or registered;

(7) their registration privileges;

(8) the medium of their payment;

(9) the place or places of their payment;

(10) the terms of their redemption; and

(11) any other provisions not inconsistent with this chapter.

(b) Bonds, notes, or warrants issued under section 25 of this chapter may be sold at public or private sale for the price or prices, in the manner, and at the time or times determined by the unit. The unit may advance all expenses, premiums, and commissions that it considers necessary or advantageous in connection with their issuance.

(c) The bonds, notes, or warrants and their authorization, issuance, sale, and delivery are not subject to any general statute concerning bonds, notes, or warrants of units.

(d) An action to contest the validity of bonds, notes, or warrants issued under section 25 of this chapter may not be commenced more than thirty (30) days after the adoption of the ordinance approving them under section 25 of this chapter.

(e) This subsection applies only to bonds, notes, or warrants issued under this chapter after June 30, 2008, that are wholly or partially payable from tax increment revenues derived from property taxes. The maximum term or repayment period for the bonds, notes, or warrants may not exceed:

(1) twenty-five (25) years, unless the bonds, notes, or warrants were:

(A) issued or entered into before July 1, 2008;

(B) issued or entered into after June 30, 2008, but authorized by a resolution adopted before July 1, 2008; or

(C) issued or entered into after June 30, 2008, in order to fulfill the terms of agreements or pledges entered into before July 1, 2008, with the holders of the bonds, notes, warrants, or other contractual obligations by or with developers, lenders, or units, or otherwise prevent an impairment of the rights or remedies of the holders of the bonds, notes, warrants, or other contractual obligations; or

(2) thirty (30) years, if the bonds, notes, or warrants were issued after June 30, 2008, to finance:

(A) an integrated coal gasification powerplant (as defined by IC 6-3.1-29-6);

(B) a part of an integrated coal gasification powerplant (as defined by IC 6-3.1-29-6); or

(C) property used in the operation or maintenance of an integrated coal gasification powerplant (as defined by IC 6-3.1-29-6);

that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008.

(f) The general assembly makes the following findings of fact with respect to an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6) that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008:

(1) The health, safety, general welfare, and economic and energy security of the people of the state of Indiana require as a public purpose of the state the promotion of clean energy, including clean coal, technologies in Indiana.

(2) These technologies include the integrated coal gasification powerplant contemplated by this chapter, IC 6-1.1-20-1.1, and IC 36-7-14.

(3) Investment in the integrated coal gasification powerplant contemplated by this chapter, IC 6-1.1-20-1.1, and IC 36-7-14 will result in substantial financial and other benefits to the state and its political subdivisions and the people of Indiana, including increased employment, tax revenue, and use of Indiana coal.

(4) It is in the best interest of the state and its citizens to promote and preserve financial and other incentives for the integrated coal gasification powerplant.

SECTION 723. IC 36-7-14-6.1, AS AMENDED BY P.L.190-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) The five (5) commissioners for a municipal redevelopment commission shall be appointed as follows:

(1) Three (3) shall be appointed by the municipal executive.

(2) Two (2) shall be appointed by the municipal legislative body.

The municipal executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1,

2008.

(b) The commissioners for a county redevelopment commission **that has five (5) members** shall be appointed ~~by the county executive.~~ **as follows:**

(1) The county executive shall appoint all the members whose terms of office begin before January 1, 2008.

(2) For terms of office beginning after December 31, 2007, the county executive shall appoint three (3) members, and the county fiscal body shall appoint two (2) members.

The county executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(c) The commissioners for a county redevelopment commission that has seven (7) members shall be appointed as follows:

(1) The county executive shall appoint all the members whose terms of office begin before January 1, 2008.

(2) For terms of office beginning after December 31, 2007, the county executive shall appoint four (4) members, and the county fiscal body shall appoint three (3) members.

The county executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(d) A nonvoting adviser appointed under this section:

(1) must also be a member of the school board of a school corporation that includes all or part of the territory served by the redevelopment commission;

(2) is not considered a member of the redevelopment commission for purposes of this chapter but is entitled to attend and participate in the proceedings of all meetings of the redevelopment commission;

(3) is not entitled to a salary, per diem, or reimbursement of expenses;

(4) serves for a term of two (2) years and until a successor is appointed; and

(5) serves at the pleasure of the entity that appointed the nonvoting adviser.

SECTION 724. IC 36-7-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A redevelopment commissioner **or a nonvoting adviser appointed under section 6.1 of this chapter** may not have a pecuniary interest in any contract,

employment, purchase, or sale made under this chapter. However, any property required for redevelopment purposes in which a commissioner **or nonvoting adviser** has a pecuniary interest may be acquired, but only by gift or condemnation.

(b) A transaction made in violation of this section is void.

SECTION 725. IC 36-7-14-15, AS AMENDED BY P.L.221-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) Whenever the redevelopment commission finds that:

(1) an area in the territory under ~~their~~ **its** jurisdiction is an area needing redevelopment;

(2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or the ordinary operations of private enterprise without resort to this chapter; ~~and~~

(3) the public health and welfare will be benefited by:

(A) the acquisition and redevelopment of the area under this chapter **as a redevelopment project area; or**

(B) the amendment of the resolution or plan, or both, for an existing redevelopment project area; and

(4) in the case of an amendment to the resolution or plan for an existing redevelopment project area:

(A) the amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter;

(B) the resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit; and

(C) except as provided by subsection (f), if the amendment enlarges the boundaries of the area, the existing area does not generate sufficient revenue to meet the financial obligations of the original project;

the commission shall cause to be prepared the data described in subsection (b).

(b) After making a finding under subsection (a), the commission shall cause to be prepared:

(1) maps and plats showing:

(A) the boundaries of the area ~~needing redevelopment,~~ **in which property would be acquired for, or otherwise affected by, the establishment of a redevelopment project area or the amendment of the resolution or plan for an existing area;**

(B) the location of the various parcels of property, streets, alleys,

and other features affecting the acquisition, clearance, remediation, replatting, replanning, rezoning, or redevelopment of the area, indicating any parcels of property to be excluded from the acquisition **or otherwise excluded from the effects of the establishment of the redevelopment project area or the amendment of the resolution or plan for an existing area;** and ~~(B)~~ **(C)** the parts of the area acquired, **if any,** that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes under the redevelopment plan;

(2) lists of the owners of the various parcels of property proposed to be acquired **for, or otherwise affected by, the establishment of an area or the amendment of the resolution or plan for an existing area;** and

(3) an estimate of the ~~cost of~~ **costs, if any, to be incurred for the** acquisition and redevelopment **of property.**

(c) **This subsection applies to the initial establishment of a redevelopment project area.** After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) the area needing redevelopment is a menace to the social and economic interest of the unit and its inhabitants;

(2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and

(3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, and that the department of redevelopment proposes to acquire all of the interests in the land within the boundaries, with certain designated exceptions, if there are any.

(d) This subsection applies to the amendment of the resolution or plan for an existing redevelopment project area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) except as provided by subsection (f), if the amendment enlarges the boundaries of the area, the existing area does not generate sufficient revenue to meet the financial obligations of the original project;

(2) it will be of public utility and benefit to amend the resolution or plan for the area; and

(3) any additional area to be acquired under the amendment is

designated as part of the existing redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, including any changes made to those boundaries by the amendment, and describe the activities that the department of redevelopment is permitted to take under the amendment, with any designated exceptions.

~~(d)~~ **(e)** For the purpose of adopting a resolution under subsection (c) **or (d),** it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commissioners. Property excepted from the ~~acquisition~~ **application of a resolution** may be described by street numbers or location.

(f) The redevelopment commission is not required to make the finding and declaration described in subsections (a)(4)(C) and (d)(1) concerning the enlargement of the boundaries of an existing redevelopment project area if, before the adoption of the resolution under subsection (d), the Indiana economic development corporation issues a finding approving the enlargement of the boundaries. Before issuing a finding under this subsection, the Indiana economic development corporation must consider whether the enlargement of the boundaries will:

(1) lead to increased investment in Indiana;

(2) foster job creation or job retention in Indiana;

(3) have a positive impact on the unit in which the redevelopment project area is located; or

(4) otherwise benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

SECTION 726. IC 36-7-14-15.5, AS AMENDED BY P.L.185-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15.5. (a) This section applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) In adopting a declaratory resolution under section 15 of this chapter, a redevelopment commission may include a provision stating that the redevelopment project area is considered to include one (1) or more additional areas outside the boundaries of the redevelopment project area if the redevelopment commission makes the following findings and the requirements of subsection (c) are met:

(1) One (1) or more taxpayers presently located within the boundaries of the redevelopment project area are expected within one (1) year to relocate all or part of their operations outside the boundaries of the redevelopment project area and have expressed an interest in relocating all or part of their operations within the boundaries of an additional area.

(2) The relocation described in subdivision (1) will contribute to the continuation of the conditions described in IC 36-7-1-3 in the redevelopment project area.

(3) For purposes of this section, it will be of public utility and benefit to include the additional areas as part of the redevelopment project area.

(c) Each additional area must be designated by the redevelopment commission as a redevelopment project area or an economic development area under this chapter.

(d) Notwithstanding section 3 of this chapter, the additional areas shall be considered to be a part of the redevelopment special taxing district under the jurisdiction of the redevelopment commission. Any excess property taxes that the commission has determined may be paid to taxing units under section 39(b)(3) of this chapter shall be paid to the taxing units from which the excess property taxes were derived. All powers of the redevelopment commission authorized under this chapter may be exercised by the redevelopment commission in additional areas under its jurisdiction.

(e) The declaratory resolution must include a statement of the general boundaries of each additional area. However, it is sufficient to describe those boundaries by location in relation to public ways, streams, or otherwise, as determined by the commissioners.

(f) The declaratory resolution may include a provision with respect to the allocation and distribution of property taxes with respect to one (1) or more of the additional areas in the manner provided in section 39 of this chapter. If the redevelopment commission includes such a provision in the resolution, allocation areas in the redevelopment project area and in the additional areas considered to be part of the redevelopment project area shall be considered a single allocation area for purposes of this chapter.

(g) The additional areas must be located within the same county as the redevelopment project area but are not otherwise required to be within the jurisdiction of the redevelopment commission, if the redevelopment commission obtains the consent by ordinance of:

(1) the county legislative body, for each additional area located

within the unincorporated part of the county; or

(2) the legislative body of the city or town affected, for each additional area located within a city or town.

In granting its consent, the legislative body shall approve the plan of development or redevelopment relating to the additional area.

(h) A declaratory resolution previously adopted may be amended to include a provision to include additional areas as set forth in this section and an allocation provision under section 39 of this chapter with respect to one (1) or more of the additional areas in accordance with ~~section 17.5~~ **sections 15, 16, and 17** of this chapter.

(i) The redevelopment commission may amend the allocation provision of a declaratory resolution in accordance with ~~section 17.5~~ **sections 15, 16, and 17** of this chapter to change the assessment date that determines the base assessed value of property in the allocation area to any assessment date following the effective date of the allocation provision of the declaratory resolution. Such a change may relate to the assessment date that determines the base assessed value of that portion of the allocation area that is located in the redevelopment project area alone, that portion of the allocation area that is located in an additional area alone, or the entire allocation area.

SECTION 727. IC 36-7-14-16, AS AMENDED BY P.L.1-2006, SECTION 565, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) This subsection does not apply to the redevelopment commission of an excluded city described in section 1(b) of this chapter. After adoption ~~of a resolution~~ under section 15 of this chapter **of a resolution that designates a redevelopment project area or amends the resolution or plan for an existing area,** the redevelopment commission shall submit the resolution and supporting data to the plan commission of the unit, or if there is no plan commission, then to the body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the redevelopment plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The redevelopment commission may amend or modify the resolution and proposed plan in order to conform them to the requirements of the plan commission. The plan commission shall issue its written order approving or disapproving the resolution and redevelopment plan, and may, with the consent of the redevelopment commission, rescind or modify that order.

(b) This subsection does not apply to the redevelopment commission of an excluded city described in section 1(b) of this chapter. The

redevelopment commission may not proceed with:

(1) the acquisition of a redevelopment project area; **or**

(2) the implementation of an amendment to the resolution or plan for an existing redevelopment project area;

until the approving order of the plan commission is issued and approved by the municipal legislative body or county executive.

(c) In determining the location and extent of a redevelopment project area proposed to be acquired for redevelopment, the redevelopment commission and the plan commission of the unit shall give consideration to transitional and permanent provisions for adequate housing for the residents of the area who will be displaced by the redevelopment project.

(d) **After adoption under section 15 of this chapter of a resolution that designates a redevelopment project area or amends the resolution or plan for an existing area,** a redevelopment commission in an excluded city that is exempt from the requirements of subsections (a) and (b) shall submit the resolution and supporting data to the municipal legislative body of the excluded city. The municipal legislative body may:

(1) determine if the resolution and the redevelopment plan conform to the plan of development for the unit; and

(2) approve or disapprove the resolution and plan proposed.

SECTION 728. IC 36-7-14-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) After receipt of the written order of approval of the plan commission and approval of the municipal legislative body or county executive, the redevelopment commission shall publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1. The notice must:

(1) state that maps and plats have been prepared and can be inspected at the office of the department; ~~The notice must also~~ **and**

(2) name a date when the commission will:

(A) receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed project **or other actions to be taken under the resolution;** and ~~will~~

(B) determine the public utility and benefit of the proposed project **or other actions.**

All persons affected in any manner by the hearing, including all taxpayers of the special taxing district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the commission by the notice given under this section.

(b) A copy of the notice of the hearing on the ~~proposed project~~

resolution shall be filed in the office of the unit's plan commission, board of zoning appeals, works board, park board, and building commissioner, and any other departments, bodies, or officers of the unit having to do with unit planning, variances from zoning ordinances, land use, or the issuance of building permits. These agencies and officers shall take notice of the pendency of the hearing and, until the commission confirms, modifies and confirms, or rescinds the resolution, or the confirmation of the resolution is set aside on appeal, may not:

(1) authorize any construction on property or sewers in the area described in the resolution, including substantial modifications, rebuilding, conversion, enlargement, additions, and major structural improvements; or

(2) take any action regarding the zoning or rezoning of property, or the opening, closing, or improvement of streets, alleys, or boulevards in the area described in the resolution.

This subsection does not prohibit the granting of permits for ordinary maintenance or minor remodeling, or for changes necessary for the continued occupancy of buildings in the area.

(c) If the resolution to be considered at the hearing includes a provision establishing or amending an allocation provision under section 39 of this chapter, the redevelopment commission shall file the following information with each taxing unit that is wholly or partly located within the allocation area:

(1) A copy of the notice required by subsection (a).

(2) A statement disclosing the impact of the allocation area, including the following:

(A) The estimated economic benefits and costs incurred by the allocation area, as measured by increased employment and anticipated growth of real property assessed values.

(B) The anticipated impact on tax revenues of each taxing unit.

The redevelopment commission shall file the information required by this subsection with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the hearing.

(d) At the hearing, which may be adjourned from time to time, the redevelopment commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the commission shall take final action determining the public utility and benefit of the proposed project **or other actions to be taken under the**

resolution, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the commission shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 18 of this chapter.

SECTION 729. IC 36-7-14-17.5, AS AMENDED BY P.L.185-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17.5. ~~(a) The commission must conduct a public hearing before amending a resolution or plan for a redevelopment project area, an urban renewal project area, or an economic development area, the commission shall give notice of the hearing in accordance with IC 5-3-1. The notice must:~~

~~(1) set forth the substance of the proposed amendment;~~

~~(2) state the time and place where written remonstrances against the proposed amendment may be filed;~~

~~(3) set forth the time and place of the hearing; and~~

~~(4) state that the commission will hear any person who has filed a written remonstrance during the filing period set forth under subdivision (2).~~

~~(b) For the purposes of this section, the consolidation of areas is not considered the enlargement of the boundaries of an area.~~

~~(c) When the commission proposes to amend a resolution or plan, the commission is not required to have evidence or make findings that were required for the establishment of the original redevelopment project area, urban renewal area, or economic development area. However, the commission must make the following findings before approving the amendment:~~

~~(1) The amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter.~~

~~(2) The resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit.~~

~~(d)~~ **(a)** In addition to the requirements of ~~subsection (a),~~ **section 17 of this chapter,** if the resolution or plan **for an existing redevelopment project area** is proposed to be amended in a way that changes:

(1) parts of the area that are to be devoted to a public way, levee, sewerage, park, playground, or other public purposes;

(2) the proposed use of the land in the area; or

(3) requirements for rehabilitation, building requirements, proposed zoning, maximum densities, or similar requirements;

the commission must, at least ten (10) days before the public hearing

under section 17 of this chapter, send the notice required by ~~subsection (a)~~ **section 17 of this chapter** by first class mail to affected neighborhood associations.

~~(c)~~ **(b)** In addition to the requirements of ~~subsection (a),~~ **section 17 of this chapter,** if the resolution or plan **for an existing redevelopment project area** is proposed to be amended in a way that:

(1) enlarges the boundaries of the area; ~~by not more than twenty percent (20%) of the original area;~~ or

(2) adds one (1) or more parcels to the list of parcels to be acquired;

the commission must, at least ten (10) days before the public hearing **under section 17 of this chapter,** send the notice required by ~~subsection (a)~~ **section 17 of this chapter** by first class mail to affected neighborhood associations and to persons owning property that is in the proposed enlargement of the area or that is proposed to be added to the acquisition list. If the enlargement of an area is proposed, notice must also be filed in accordance with section 17(b) of this chapter, and agencies and officers may not take actions prohibited by section 17(b) of this chapter in the proposed enlarged area.

~~(f) Notwithstanding subsections (a) and (c), if the resolution or plan is proposed to be amended in a way that enlarges the original boundaries of the area by more than twenty percent (20%), the commission must use the procedure provided for the original establishment of areas and must comply with sections 15 through 17 of this chapter.~~

~~(g) At the hearing on the amendments, the commission shall consider written remonstrances that are filed. The action of the commission on the amendment shall be recorded and is final and conclusive, except that an appeal of the commission's action may be taken under section 18 of this chapter.~~

~~(h)~~ **(c)** The commission may require that neighborhood associations register with the commission. The commission may adopt a rule that requires that a neighborhood association encompass a part of the geographic area included in or proposed to be included in a redevelopment project area, urban renewal area, or economic development area to qualify as an affected neighborhood association.

SECTION 730. IC 36-7-14-20, AS AMENDED BY P.L.185-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) **Subject to the approval of the legislative body of the unit that established the department of redevelopment,** if the redevelopment commission considers it necessary to acquire real property in a redevelopment project area by the exercise of the power of

eminent domain, ~~they~~ **the commission** shall adopt a resolution setting out ~~their~~ **its** determination to exercise that power and directing ~~their~~ **its** attorney to file a petition in the name of the unit on behalf of the department of redevelopment, in the circuit or superior court of the county in which the property is situated.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section, but property belonging to the state or any political subdivision may not be acquired without its consent.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the unit for the use and benefit of its department of redevelopment.

SECTION 731. IC 36-7-14-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) All expenses incurred by the department of redevelopment that must be paid before the collection of taxes levied under this chapter shall be paid in the manner prescribed by this section. The commission shall certify the items of expense to the fiscal officer of the unit ~~directing him to pay~~ **requesting payment of** the amounts certified. ~~and~~ **Subject to appropriation by the fiscal body of the unit,** the fiscal officer shall then draw ~~his~~ **a** warrant ~~The warrant shall~~ **in the requested amount to** be paid out of the general fund of the unit. ~~without appropriation by the fiscal body or approval by any other body.~~ If the unit has no unappropriated monies in its general fund, the fiscal officer of the unit ~~shall~~ **may** recommend to the fiscal body the temporary transfer from other funds of the unit of a sufficient amount to meet the items of expense, or the making of a temporary loan for that purpose. The fiscal body ~~shall immediately~~ **may** make the transfer or authorize the temporary loan in the same manner that other transfers and temporary loans are made by the unit.

(b) The amount advanced by the unit under this section may not exceed fifty thousand dollars ($50,000), and the fund or funds of the unit from which the advancement is made shall be fully reimbursed and repaid by the redevelopment commission out of ~~the first proceeds of the special taxes levied under this chapter.~~ **legally available revenues.**

(c) The redevelopment commission may not use any part of the amount advanced by the unit under this section in the acquisition of real property.

SECTION 732. IC 36-7-14-25.1, AS AMENDED BY P.L.219-2007, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 25.1. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by resolution and subject to subsection (p), issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and

(4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17.

(b) If the redevelopment commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable, subject to the requirements of the bond resolution for registering the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed:

(A) fifty (50) years, **for bonds issued before July 1, 2008;**

(B) thirty (30) years, for bonds issued after June 30, 2008, to finance:

(i) an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6);

(ii) a part of an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6); or

(iii) property used in the operation or maintenance of an integrated coal gasification powerplant (as defined in

IC 6-3.1-29-6);

that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008; or

(C) twenty-five (25) years, for bonds issued after June 30, 2008, that are not described in clause (B).

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the redevelopment commission.

(d) The redevelopment commission shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds, subject to subsection (p). The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds must be executed by the appropriate officer of the unit and attested by the municipal or county fiscal officer.

(f) The bonds are exempt from taxation for all purposes.

(g) The municipal or county fiscal officer shall give notice of the sale of the bonds by publication in accordance with IC 5-3-1. The municipal fiscal officer, or county fiscal officer or executive, shall sell the bonds to the highest bidder, but may not sell them for less than ninety-seven percent (97%) of their par value. However, bonds payable solely or in part from tax proceeds allocated under section 39(b)(2) of this chapter, or other revenues of the district may be sold at a private negotiated sale.

(h) Except as provided in subsection (i), a redevelopment commission may not issue the bonds when the total issue, including bonds already issued and to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the special taxing district, as determined under IC 36-1-15.

(i) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the redevelopment commission:

(1) from a special tax levied upon all of the property in the taxing district, as provided by section 27 of this chapter;

(2) from the tax proceeds allocated under section 39(b)(2) of this chapter;

(3) from other revenues available to the redevelopment commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3).

If the bonds are payable solely from the tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(j) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(k) All laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and the approval of the appropriation by the department of local government finance apply to all bonds issued under this chapter that are payable from the special benefits tax levied pursuant to section 27 of this chapter or from taxes allocated under section 39 of this chapter.

(l) All laws relating to:

(1) the filing of petitions requesting the issuance of bonds; and

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

apply to bonds issued under this chapter except for bonds payable solely from tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(m) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(n) Any amount remaining in the debt service reserve after all of the bonds of the issue for which the debt service reserve was established have matured shall be:

(1) deposited in the allocation fund established under section 39(b)(2) of this chapter; **and**

(2) to the extent permitted by law, transferred to the county or municipality that established the department of redevelopment for use in reducing the county's or municipality's property tax levies for debt service.

(o) If bonds are issued under this chapter that are payable solely or in part from revenues to the redevelopment commission from a project or

projects, the redevelopment commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the redevelopment commission. The redevelopment commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the redevelopment commission that are payable solely from revenues of the commission shall contain a statement to that effect in the form of bond.

(p) If the total principal amount of bonds authorized by a resolution of the redevelopment commission **adopted before July 1, 2008,** is equal to or greater than three million dollars ($3,000,000), the bonds may not be issued without the approval, by resolution, of the legislative body of the unit. **Bonds authorized in any principal amount by a resolution of the redevelopment commission adopted after June 30, 2008, may not be issued without the approval of the legislative body of the unit.**

SECTION 733. IC 36-7-14-25.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25.2. (a) A redevelopment commission may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed:

(1) fifty (50) years, ~~and~~ **for a lease entered into before July 1, 2008; or**

(2) twenty-five (25) years, for a lease entered into after June 30, 2008.

The lease may provide for payments to be made by the redevelopment commission from special benefits taxes levied under section 27 of this chapter, taxes allocated under section 39 of this chapter, any other revenues available to the redevelopment commission, or any combination of these sources.

(b) A lease may provide that payments by the redevelopment commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of

the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the redevelopment commission only after a public hearing by the redevelopment commission at which all interested parties are provided the opportunity to be heard. After the public hearing, the redevelopment commission may adopt a resolution authorizing the execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the redevelopment commission must be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the redevelopment commission in whole or in part from the levy of special benefits taxes under section 27 of this chapter and upon approval of the lease by the unit's fiscal body, the redevelopment commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the redevelopment district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be.

(e) Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for a hearing in the redevelopment district, which must be not less than five (5) or more than thirty (30) days after the time is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the redevelopment commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal,

upon the necessity for the execution of the lease, and as to whether the payments under it are fair and reasonable, is final.

(f) A redevelopment commission entering into a lease payable from allocated taxes under section 39 of this chapter or other available funds of the redevelopment commission may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; and

(2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the redevelopment commission to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(h) Except as provided in this section, no approvals of any governmental body or agency are required before the redevelopment commission enters into a lease under this section.

(i) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or enjoin the performance must be brought within thirty (30) days after the decision of the department.

(j) If a redevelopment commission exercises an option to buy a leased facility from a lessor, the redevelopment commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the redevelopment commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the redevelopment commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

SECTION 734. IC 36-7-14-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) This section applies only to:

(1) bonds that are issued under section 25.1 of this chapter; **and**

(2) leases entered into under section 25.2 of this chapter;

which are payable from a special tax levied upon all of the property in the special taxing district. This section does not apply to bonds or leases that

are payable solely from tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(b) The redevelopment commission shall levy each year a special tax on all of the property of the redevelopment taxing district, in such a manner as to meet and pay the principal of the bonds as they mature, together with all accruing interest on the bonds or lease rental payments under section 25.2 of this chapter. The commission shall cause the tax levied to be certified to the proper officers as other tax levies are certified, and to the auditor of the county in which the redevelopment district is located, before the second day of October in each year. The tax shall be estimated and entered on the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other state and county taxes are estimated, entered, collected, and enforced. The amount of the tax levied to pay bonds or lease rentals payable from the tax levied under this section shall be reduced by any amount available in the allocation fund established under section 39(b)(2) of this chapter or other revenues of the redevelopment commission to the extent such revenues have been set aside in the redevelopment bond fund.

(c) As the tax is collected, it shall be accumulated in a separate fund to be known as the redevelopment district bond fund and shall be applied to the payment of the bonds as they mature and the interest on the bonds as it accrues, or to make lease payments and to no other purpose. All accumulations of the fund before their use for the payment of bonds and interest or to make lease payments shall be deposited with the depository or depositories for other public funds of the unit in accordance with IC 5-13, unless they are invested under IC 5-13-9.

(d) If there are no outstanding bonds that are payable solely or in part from tax proceeds allocated under section 39(b)(2) of this chapter and that were issued to pay costs of redevelopment in an allocation area that is located wholly or in part in the special taxing district, then all proceeds from the sale or leasing of property in the allocation area under section 22 of this chapter shall be paid into the redevelopment district bond fund and become a part of that fund. In arriving at the tax levy for any year, the redevelopment commission ~~may~~ **shall** take into account the amount of the proceeds deposited under this subsection and remaining on hand.

(e) The tax levies provided for in this section are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the lease payable from the levy of

taxes.

SECTION 735. IC 36-7-14-27.5, AS AMENDED BY P.L.224-2007, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The redevelopment commission may borrow money in anticipation of receipt of the proceeds of taxes levied for the redevelopment district bond fund and not yet collected, and may evidence this borrowing by issuing warrants of the redevelopment district. However, the aggregate principal amount of warrants issued in anticipation of and payable from the same tax levy or levies may not exceed an amount equal to eighty percent (80%) of that tax levy or levies, as certified by the department of local government finance, or as determined by multiplying the rate of tax as finally approved by the total assessed valuation (after deducting all mortgage deductions) within the redevelopment district, as most recently certified by the county auditor.

(b) The warrants may be authorized and issued at any time after the tax or taxes in anticipation of which they are issued have been levied by the redevelopment commission. For purposes of this section, taxes for any year are considered to be levied upon adoption by the commission of a resolution prescribing the tax levies for the year. However, the warrants may not be delivered and paid for before final approval of the tax levy or levies by the county board of tax adjustment ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ or, if appealed, by the department of local government finance, unless the issuance of the warrants has been approved by the department.

(c) All action that this section requires or authorizes the redevelopment commission to take may be taken by resolution, which need not be published or posted. The resolution takes effect immediately upon its adoption by the redevelopment commission. An action to contest the validity of tax anticipation warrants may not be brought later than ten (10) days after the sale date.

(d) In their resolution authorizing the warrants, the redevelopment commission must provide that the warrants mature at a time or times not later than December 31 after the year in which the taxes in anticipation of which the warrants are issued are due and payable.

(e) In their resolution authorizing the warrants, the redevelopment commission may provide:

(1) the date of the warrants;

(2) the interest rate of the warrants;

(3) the time of interest payments on the warrants;

(4) the denomination of the warrants;

(5) the form either registered or payable to bearer, of the warrants;

(6) the place or places of payment of the warrants, either inside or outside the state;

(7) the medium of payment of the warrants;

(8) the terms of redemption, if any, of the warrants, at a price not exceeding par value and accrued interest;

(9) the manner of execution of the warrants; and

(10) that all costs incurred in connection with the issuance of the warrants may be paid from the proceeds of the warrants.

(f) The warrants shall be sold for not less than par value, after notice inviting bids has been published under IC 5-3-1. The redevelopment commission may also publish the notice in other newspapers or financial journals.

(g) Warrants and the interest on them are not subject to any limitation contained in section 25.1 of this chapter, and are payable solely from the proceeds of the tax levy or levies in anticipation of which the warrants were issued. The authorizing resolution must pledge a sufficient amount of the proceeds of the tax levy or levies to the payment of the warrants and the interest.

SECTION 736. IC 36-7-14-32.5, AS AMENDED BY P.L.163-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 32.5. (a) **Subject to the approval of the fiscal body of the unit that established the department of redevelopment,** the commission may acquire a parcel of real property by the exercise of eminent domain when the real property has all of the following characteristics:

(1) The real property meets at least one (1) of the conditions described in IC 32-24-4.5-7(1).

(2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(3) The condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or the commission's designated hearing examiner shall conduct a public meeting to determine whether a parcel of real property has the characteristics set forth in subsection (a). Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten

(10) days before the hearing and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, the commission shall adopt a resolution setting out the commission's determination to exercise that power and directing the commission's attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court with jurisdiction in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation with a condition in the granting clause of the deed requiring the nonprofit development corporation to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the unit's median income for families.

(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the unit's median income for families.

(f) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

SECTION 737. IC 36-7-14-35, AS AMENDED BY P.L.154-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. (a) **Subject to the approval of the fiscal body of the unit that established the department of redevelopment, and** in order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project, urban renewal project, or housing program;

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section;

the redevelopment commission may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the unit or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) **Subject to the approval of the fiscal body of the unit that established the department of redevelopment,** the redevelopment commission may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this or any other chapter, bonds, notes, or warrants issued by the redevelopment commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are

payable only from and secured only by income, funds, and properties of the project becoming available to the redevelopment commission under this chapter, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of the unit in the name of the "City (or Town or County) of _____, Department of Redevelopment", and must be attested by the appropriate officers of the unit.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the redevelopment commission shall certify a copy of that resolution to the officers of the unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the redevelopment commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the redevelopment commission without regard

to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 738. IC 36-7-14-39, AS AMENDED BY P.L.154-2006, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after

June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the

procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. ~~that~~ **For an allocation area established before July 1, 2008, the expiration date** may not be more than thirty (30) years after the date on which the allocation provision is established. **For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the allocation provision is established.** However, **with respect to bonds or other obligations that were issued before July 1, 2008,** if **any of the** bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from

allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements ~~in or serving~~ **that are physically located in or physically connected to** that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) ~~in or serving~~ **that are physically located in or physically connected to** that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility ~~in or serving~~ **that is physically located in or physically connected to** that allocation area under any lease entered into under IC 36-1-10.

(I) **For property taxes first due and payable before January 1, 2009,** pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in

IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter **(before its repeal)** in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the commission.

(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the ~~base~~ assessed value **of the taxable property in the allocation area for the most recent assessment date minus the base assessed value,** when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the fiscal body of the county or municipality that established the**

department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of ~~the amount of~~ excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); **or**

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds

allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 739. IC 36-7-14-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. (a) The commission may, by following the procedures set forth in sections 15 through 17 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 18 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds that:

(1) the plan for the economic development area:

(A) promotes significant opportunities for the gainful employment of its citizens;

(B) attracts a major new business enterprise to the unit;

(C) retains or expands a significant business enterprise existing in the boundaries of the unit; or

(D) meets other purposes of this section and sections 2.5 and 43

of this chapter;

(2) the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 2.5 and 43 of this chapter because of:

(A) lack of local public improvement;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land;

(C) multiple ownership of land; or

(D) other similar conditions;

(3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;

(4) the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:

(A) the attraction or retention of permanent jobs;

(B) an increase in the property tax base;

(C) improved diversity of the economic base; or

(D) other similar public benefits; and

(5) the plan for the economic development area conforms to other development and redevelopment plans for the unit.

(c) The determination that a geographic area is an economic development area must be approved by the unit's legislative body. The approval may be given either before or after judicial review is requested. The requirement that the unit's legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area. However, the enlargement of any boundary in the economic development area must be approved by the unit's legislative body, **and a boundary may not be enlarged unless:**

(1) the existing area does not generate sufficient revenue to meet the financial obligations of the original project; or

(2) the Indiana economic development corporation has, in the manner provided by section 15(f) of this chapter, made a finding approving the enlargement of the boundary.

SECTION 740. IC 36-7-14-43, AS AMENDED BY P.L.185-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) All of the rights, powers, privileges, and immunities that may be exercised by the commission in a redevelopment project area or urban renewal area may be exercised by the commission in an economic development area, subject to the following:

(1) The content and manner of exercise of these rights, powers,

privileges, and immunities shall be determined by the purposes and nature of an economic development area.

(2) Real property (or interests in real property) relative to which action is taken in an economic development area is not required to meet the conditions described in IC 36-7-1-3.

(3) The special tax levied in accordance with section 27 of this chapter may be used to carry out activities under this chapter in economic development areas.

(4) Bonds may be issued in accordance with section 25.1 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas **if no other revenue sources are available for this purpose.**

(5) The tax exemptions set forth in section 37 of this chapter are applicable in economic development areas.

(6) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes.

(7) The commission may not use its power of eminent domain under section 20 of this chapter to carry out activities under this chapter in an economic development area.

(b) The content and manner of discharge of duties set forth in section 11 of this chapter shall be determined by the purposes and nature of an economic development area.

SECTION 741. IC 36-7-14-48, AS AMENDED BY P.L.219-2007, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) **For property taxes first due and payable before January 1, 2009,** providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as

calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which ~~property taxes payable to the allocation fund in the following year~~ **the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area,** will exceed the amount of **assessed value needed to produce the** property taxes

necessary:

(A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 39(b)(2) of this chapter; and

(C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; **or**

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 742. IC 36-7-14.5-12.5, AS AMENDED BY P.L.219-2007, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12.5. (a) This section applies only to an authority in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) In order to accomplish the purposes set forth in section 11 of this

chapter, an authority may create an economic development area:

(1) by following the procedures set forth in IC 36-7-14-41 for the establishment of an economic development area by a redevelopment commission; and

(2) with the same effect as if the economic development area was created by a redevelopment commission.

The area established under this section shall be established only in the area where a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located.

(c) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may do the following in a manner that serves an economic development area created under this section:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of economic development areas located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of economic development areas on the terms and conditions that the authority considers best for the unit and the unit's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Repair and maintain structures acquired for redevelopment purposes.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(7) Survey or examine any land to determine whether the land should be included within an economic development area to be acquired for redevelopment purposes and to determine the value of that land.

(8) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any economic development area within the jurisdiction of the authority.

(9) Institute or defend in the name of the unit any civil action, but all actions against the authority must be brought in the circuit or superior court of the county where the authority is located.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the authority.

(11) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit subject to the same conditions and procedures that apply to the exercise of the power of eminent domain by a redevelopment commission under IC 36-7-14.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(13) Appoint clerks, guards, laborers, and other employees the authority considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

(14) Prescribe the duties and regulate the compensation of employees of the authority.

(15) Provide a pension and retirement system for employees of the authority by using the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

(16) Discharge and appoint successors to employees of the authority subject to subdivision (13).

(17) Rent offices for use of the department or authority, or accept the use of offices furnished by the unit.

(18) Equip the offices of the authority with the necessary furniture, furnishings, equipment, records, and supplies.

(19) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:

(A) Any local public improvement or structure that is necessary for redevelopment purposes or economic development within the corporate boundaries of the unit.

(B) Any structure that enhances development or economic development.

(20) Contract for the construction, extension, or improvement of pedestrian skyways (as defined in IC 36-7-14-12.2(c)).

(21) Accept loans, grants, and other forms of financial assistance

from, or contract with, the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the authority and the execution of the powers of the authority under this chapter.

(23) Take any action necessary to implement the purpose of the authority.

(24) Provide financial assistance, in the manner that best serves the purposes set forth in section 11 of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(d) An authority may designate all or a portion of an economic development area created under this section as an allocation area by following the procedures set forth in IC 36-7-14-39 for the establishment of an allocation area by a redevelopment commission. The allocation provision may modify the definition of "property taxes" under IC 36-7-14-39(a) to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of designated taxpayers in accordance with the procedures applicable to a commission under IC 36-7-14-39.3. IC 36-7-14-39.3 applies to such a modification. An allocation area established by an authority under this section is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the allocation area by promoting economic development that is of public use and benefit. For allocation areas established for an economic development area created under this section after June 30, 1997, and to the expanded portion of an allocation area for an economic development area that was established before June 30, 1997, and that is expanded under this section after June 30, 1997, the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date, must be allocated. All of the provisions of IC 36-7-14-39 ~~IC 36-7-14-39.1, and IC 36-7-14-39.5~~ apply to an allocation area created under this section, except that the authority shall be vested with the rights and duties of a commission as referenced in those sections, and except that, notwithstanding IC 36-7-14-39(b)(2), property tax proceeds paid into the allocation fund may be used by the authority only to do one (1) or more of the following:

(1) Pay the principal of and interest and redemption premium on any

obligations incurred by the special taxing district or any other entity for the purpose of financing or refinancing military base reuse activities in or serving or benefiting that allocation area.

(2) Establish, augment, or restore the debt service reserve for obligations payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the authority (including lease rental revenues).

(3) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(4) Reimburse any other governmental body for expenditures made by it for local public improvements or structures in or serving or benefiting that allocation area.

(5) **For property taxes first due and payable before 2009,** pay all or a portion of a property tax replacement credit to taxpayers in an allocation area as determined by the authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under IC 36-7-14-39.5 **(before its repeal)** in the same year.

(6) Pay expenses incurred by the authority for local public

improvements or structures that are in the allocation area or serving or benefiting the allocation area.

(7) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(A) in the allocation area; and

(B) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in clause (B). The reimbursements under this subdivision must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made. The allocation fund may not be used for operating expenses of the authority.

(e) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefitting an economic development area created by an authority under this section, and in anticipation of the taxes allocated under subsection (d), other revenues of the authority, or any combination of these sources, the authority may, by resolution, issue the bonds of the special taxing district in the name of the unit. Bonds issued under this section may be issued in any amount without limitation. The following apply if such a resolution is adopted:

(1) The authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(2) The bonds must be executed by the appropriate officer of the unit and attested by the unit's fiscal officer.

(3) The bonds are exempt from taxation for all purposes.

(4) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(5) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the authority:

(A) from the tax proceeds allocated under subsection (d);

(B) from other revenues available to the authority; or

(C) from a combination of the methods stated in clauses (A) and

(B).

(6) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(7) Laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this section.

(8) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(9) If bonds are issued under this chapter that are payable solely or in part from revenues to the authority from a project or projects, the authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority. The authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the authority that are payable solely from revenues of the authority shall contain a statement to that effect in the form of bond.

(f) Notwithstanding section 8(a) of this chapter, an ordinance adopted under section 11 of this chapter may provide, or be amended to provide, that the board of directors of the authority shall be composed of not fewer than three (3) nor more than eleven (11) members, who must be residents of the unit appointed by the executive of the unit.

(g) The acquisition of real and personal property by an authority under this section is not subject to the provisions of IC 5-22, IC 36-1-10.5, IC 36-7-14-19, or any other statutes governing the purchase of property by public bodies or their agencies.

(h) An authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 5-22-22, IC 36-1-11, IC 36-7-14-22, or any other statute governing the disposition of public property.

(i) Notwithstanding any other law, utility services provided within an economic development area established under this section are subject to

regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

SECTION 743. IC 36-7-15.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A member of the commission **or a nonvoting adviser appointed under IC 36-7-4-207** may not have a pecuniary interest in any contract, employment, purchase, or sale made under this chapter. However, any property required for redevelopment purposes in which a member **or nonvoting adviser** has a pecuniary interest may be acquired but only by gift or condemnation.

SECTION 744. IC 36-7-15.1-7, AS AMENDED BY P.L.221-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) In carrying out its duties and purposes under this chapter, the commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, lease, or condemnation, or any combination of methods, any real or personal property or interest in property needed for the redevelopment of areas needing redevelopment that are located within the redevelopment district.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, invest in, or otherwise dispose of, through any combination of methods, property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.

(3) Acquire from and sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the city, or to any other governmental agency, for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes, on any terms that may be agreed upon.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(7) Repair and maintain structures acquired or to be acquired for redevelopment purposes.

(8) Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.

(9) Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commission.

(10) **Subject to section 13 of this chapter,** exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.

(11) Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.

(12) Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.

(13) Contract for the construction, extension, or improvement of pedestrian skyways.

(14) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(15) Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided

only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(16) Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision (15); or

(B) construct, rehabilitate, or repair commercial property within the district.

(17) Require as a condition of financial assistance to the owner of a multiunit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the county's median income for families; and

(C) at an affordable rate.

Conditions imposed by the commission under this subdivision remain in force throughout the period determined under clause (A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(18) Provide programs in job training, job enrichment, and basic skill development for residents of an enterprise zone.

(19) Provide loans and grants for the purpose of stimulating business activity in an enterprise zone or providing employment for residents of an enterprise zone.

(20) Contract for the construction, extension, or improvement of:

(A) public ways, sidewalks, sewers, waterlines, parking facilities, park or recreational areas, or other local public improvements (as defined in IC 36-7-15.3-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the redevelopment district; or

(B) any structure that enhances development or economic development.

(b) In addition to its powers under subsection (a), the commission may plan and undertake, alone or in cooperation with other agencies, projects for the redevelopment of, rehabilitating, preventing the spread of, or eliminating slums or areas needing redevelopment, both residential and nonresidential, which projects may include any of the following:

(1) The repair or rehabilitation of buildings or other improvements by the commission, owners, or tenants.

(2) The acquisition of real property.

(3) Either of the following with respect to environmental contamination on real property:

(A) Investigation.

(B) Remediation.

(4) The demolition and removal of buildings or improvements on buildings acquired by the commission where necessary for any of the following:

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

(C) To lessen density.

(D) To reduce traffic hazards.

(E) To eliminate obsolete or other uses detrimental to public welfare.

(F) To otherwise remove or prevent the conditions described in IC 36-7-1-3.

(G) To provide land for needed public facilities.

(5) The preparation of sites and the construction of improvements (such as public ways and utility connections) to facilitate the sale or lease of property.

(6) The construction of buildings or facilities for residential, commercial, industrial, public, or other uses.

(7) The disposition in accordance with this chapter, for uses in accordance with the plans for the projects, of any property acquired in connection with the projects.

(c) The commission may use its powers under this chapter relative to real property and interests in real property obtained by voluntary sale or transfer, even though the real property and interests in real property are not located in a redevelopment or urban renewal project area established by the adoption and confirmation of a resolution under sections 8(c), 9, 10, and 11 of this chapter. In acquiring real property and interests in real property outside of a redevelopment or urban renewal project area, the commission shall comply with section 12(b) through 12(e) of this chapter. The commission shall hold, develop, use, and dispose of this real property and interests in real property substantially in accordance with section 15 of this chapter.

(d) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and

above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(e) All powers that may be exercised under this chapter by the commission may also be exercised by the commission in carrying out its duties and purposes under IC 36-7-15.3.

SECTION 745. IC 36-7-15.1-8, AS AMENDED BY P.L.185-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Whenever the commission finds that:

(1) an area in the redevelopment district is an area needing redevelopment;

(2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or by the ordinary operations of private enterprise without resort to this chapter; and

(3) the public health and welfare will be benefited by:

(A) the acquisition and redevelopment of the area under this chapter **as a redevelopment project area or an urban renewal area; or**

(B) the amendment of the resolution or plan, or both, for an existing redevelopment project area or urban renewal area; and

(4) in the case of an amendment to the resolution or plan for an existing redevelopment project area or urban renewal area:

(A) the amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter;

(B) the resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit; and

(C) except as provided by subsection (f), if the amendment enlarges the boundaries of the area, the existing area does not generate sufficient revenue to meet the financial obligations of the original project;

the commission shall cause to be prepared a redevelopment or urban renewal plan.

(b) The redevelopment or urban renewal plan must include:

(1) maps, plats, or maps and plats, showing:

(A) the boundaries of the area ~~needing redevelopment,~~ **in which**

property would be acquired for, or otherwise affected by, the establishment of a redevelopment project area or urban renewal area, or the amendment of the resolution or plan for an existing area;

(B) the location of the various parcels of property, public ways, and other features affecting the acquisition, clearance, replatting, replanning, rezoning, or redevelopment of the area or areas, indicating any parcels of property to be excluded from the acquisition **or otherwise excluded from the effects of the establishment of the redevelopment project area or the amendment of the resolution or plan for an existing area;** and ~~(B)~~ **(C)** the parts of the area acquired that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes;

(2) lists of the owners of the various parcels of property proposed to be acquired **for, or otherwise affected by, the establishment of an area or the amendment of the resolution or plan for an existing area;** and

(3) an estimate of the ~~cost of~~ **costs, if any, to be incurred for the** acquisition and redevelopment **of property.**

(c) **This subsection applies to the initial establishment of a redevelopment project area or urban renewal area.** After completion of the data required by subsection (b), the commission shall adopt a resolution declaring that:

(1) the area needing redevelopment is a detriment to the social or economic interests of the consolidated city and its inhabitants;

(2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and

(3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area and identify the interests in real or personal property, if any, that the department proposes to acquire in the area.

(d) This subsection applies to the amendment of the resolution or plan for an existing redevelopment project area or urban renewal area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) except as provided by subsection (f), if the amendment enlarges the boundaries of the area, the existing area does not generate sufficient revenue to meet the financial obligations of

the original project;

(2) it will be of public utility and benefit to amend the resolution or plan for the area; and

(3) any additional area to be acquired under the amendment is designated as part of the existing redevelopment project area or urban renewal area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area or urban renewal area, including any changes made to those boundaries by the amendment, and describe the activities that the department is permitted to take under the amendment, with any designated exceptions.

~~(d)~~ **(e)** For the purpose of adopting a resolution under subsection (c) **or (d),** it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commission. Property proposed for acquisition may be described by street numbers or location.

(f) The commission is not required to make the finding and declaration described in subsections (a)(4)(C) and (d)(1) concerning the enlargement of the boundaries of an existing redevelopment project area or urban renewal area if, before the adoption of the resolution under subsection (d), the Indiana economic development corporation issues a finding approving the enlargement of the boundaries. Before issuing a finding under this subsection, the Indiana economic development corporation must consider whether the enlargement of the boundaries will:

(1) lead to increased investment in Indiana;

(2) foster job creation or job retention in Indiana;

(3) have a positive impact on the unit in which the area is located; or

(4) otherwise benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

SECTION 746. IC 36-7-15.1-9, AS AMENDED BY P.L.185-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) After or concurrent with adoption of a resolution under section 8 of this chapter, the commission shall determine whether the resolution and the redevelopment plan conform to the comprehensive plan of development for the consolidated city and approve or disapprove the resolution and plan proposed. **If the commission approves the resolution and plan, it shall submit the resolution and**

plan to the legislative body of the consolidated city, which may approve or disapprove the resolution and plan.

(b) In determining the location and extent of a redevelopment project area proposed to be acquired for redevelopment, the commission shall give consideration to transitional and permanent provisions for adequate housing for the residents of the area who will be displaced by the redevelopment project.

SECTION 747. IC 36-7-15.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) After approval **by the commission and the legislative body of the consolidated city** under section 9 of this chapter, the commission shall publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1. The notice must:

(1) state that maps, plats, or maps and plats have been prepared and can be inspected at the office of the department; ~~The notice must also~~ **and**

(2) name a date when the commission will:

(A) receive and hear remonstrances and other testimony from persons interested in or affected by the proceeding pertaining to the proposed project **or other actions to be taken under the resolution;** and ~~will~~

(B) determine the public utility and benefit of the proposed project **or other actions.**

All persons affected in any manner by the hearing, including all taxpayers of the redevelopment district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the commission by the notice given under this section.

(b) A copy of the notice of the hearing on the resolution shall be filed in the office of the commission, board of zoning appeals, works board, park board, and any other departments, bodies, or officers of the consolidated city having to do with planning, variances from zoning ordinances, land use, or the issuance of building permits. These agencies and officers shall take notice of the pendency of the hearing, and until the commission confirms, modifies and confirms, or rescinds the resolution, or the confirmation of the resolution is set aside on appeal, they may not, without approval of the commission:

(1) authorize any construction on property or sewers in the area described in the resolution, including substantial modifications, rebuilding, conversion, enlargement, additions, and major structural improvements; or

(2) take any action regarding the zoning or rezoning of property, or the opening, closing, or improvement of public ways in the area described in the resolution.

This subsection does not prohibit the granting of permits for ordinary maintenance or minor remodeling, or for changes necessary for the continued occupancy of buildings in the area.

(c) If the resolution to be considered at the hearing includes a provision establishing or amending an allocation provision under section 26 of this chapter, the commission shall file the following information with each taxing unit that is wholly or partly located within the allocation area:

(1) A copy of the notice required by subsection (a).

(2) A statement disclosing the impact of the allocation area, including the following:

(A) The estimated economic benefits and costs incurred by the allocation area, as measured by increased employment and anticipated growth of real property assessed values.

(B) The anticipated impact on tax revenues of each taxing unit.

The commission shall file the information required by this subsection with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the hearing.

(d) At the hearing, which may be adjourned from time to time, the commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the commission shall take final action determining the public utility and benefit of the proposed project **or other actions to be taken under the resolution,** and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the commission shall be recorded and is final and conclusive, except that an appeal may be taken under section 11 of this chapter.

SECTION 748. IC 36-7-15.1-10.5, AS AMENDED BY P.L.185-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.5. ~~(a) The commission must conduct a public hearing before amending a resolution or plan for a redevelopment project area, an urban renewal project area, or an economic development area. The commission shall give notice of the hearing in accordance with IC 5-3-1. The notice must:~~

~~(1) set forth the substance of the proposed amendment;~~

~~(2) state the time and place where written remonstrances against the proposed amendment may be filed;~~

~~(3) set forth the time and place of the hearing; and~~

~~(4) state that the commission will hear any person who has filed a written remonstrance during the filing period set forth under subdivision (2).~~

~~(b) For the purposes of this section, the consolidation of areas is not considered the enlargement of the boundaries of an area.~~

~~(c) When the commission proposes to amend a resolution or plan, the commission is not required to have evidence or make findings that were required for the establishment of the original redevelopment project area, urban renewal area, or economic development area. However, the commission must make the following findings before approving the amendment:~~

~~(1) The amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter.~~

~~(2) The resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the county.~~

~~(d)~~ **(a)** In addition to the requirements of ~~subsection (a),~~ **section 10 of this chapter,** if the resolution or plan **for an existing redevelopment project area or urban renewal area** is proposed to be amended in a way that changes:

(1) parts of the area that are to be devoted to a public way, levee, sewerage, park, playground, or other public purpose;

(2) the proposed use of the land in the area; or

(3) requirements for rehabilitation, building requirements, proposed zoning, maximum densities, or similar requirements;

the commission must, at least ten (10) days before the public hearing **under section 10 of this chapter,** send the notice required by ~~subsection (a)~~ **section 10 of this chapter** by first class mail to affected neighborhood associations.

~~(e)~~ **(b)** In addition to the requirements of ~~subsection (a),~~ **section 10 of this chapter,** if the resolution or plan **for an existing redevelopment project area or urban renewal area** is proposed to be amended in a way that:

(1) enlarges the boundaries of the area; ~~by not more than twenty percent (20%) of the original area,~~ or

(2) adds one (1) or more parcels to the list of parcels to be acquired;

the commission must, at least ten (10) days before the public hearing **under section 10 of this chapter,** send the notice required by ~~subsection (a)~~ **section 10 of this chapter** by first class mail to affected neighborhood

associations and to persons owning property that is in the proposed enlargement of the area or that is proposed to be added to the acquisition list. If the enlargement of an area is proposed, notice must also be filed in accordance with section 10(b) of this chapter, and agencies and officers may not take actions prohibited by section 10(b) in the proposed enlarged area.

~~(f) Notwithstanding subsections (a) and (c), if the resolution or plan is proposed to be amended in a way that enlarges the original boundaries of the area by more than twenty percent (20%), the commission must use the procedure provided for the original establishment of areas and must comply with sections 8 through 10 of this chapter.~~

~~(g) At the hearing on the amendments, the commission shall consider written remonstrances that are filed. The action of the commission on the amendment shall be recorded and is final and conclusive, except that:~~

~~(1) the city-county legislative body must also approve the enlargement of the boundaries of an economic development area; and~~

~~(2) an appeal of the commission's action may be taken under section 11 of this chapter.~~

~~(h)~~ **(c)** The commission may require that neighborhood associations register with the commission. The commission may adopt a rule that requires that a neighborhood association encompass a part of the geographic area included in or proposed to be included in a redevelopment project area, urban renewal area, or economic development area to qualify as an affected neighborhood association.

SECTION 749. IC 36-7-15.1-13, AS AMENDED BY P.L.185-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) **Subject to the approval of the city-county legislative body,** if the commission considers it necessary to acquire real property in a redevelopment project area by the exercise of the power of eminent domain, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court of the county.

(b) Eminent domain proceedings under this section are governed by IC 32-24.

SECTION 750. IC 36-7-15.1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) For the purpose of raising money to carry out this chapter or IC 36-7-15.3, the city-county legislative body ~~shall~~ **may** levy each year a special tax upon all property

in the redevelopment district. The tax so levied each year shall be certified to the fiscal officers of the city and the county before September 2 of each year. The tax shall be estimated and entered upon the tax duplicates by the county auditor, and shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(b) As the tax is collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the redevelopment district fund and shall be expended and applied only for the purposes of this chapter or IC 36-7-15.3.

(c) The amount of the special tax levy shall be based on the budget of the department but may not exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of taxable valuation in the redevelopment district, except as otherwise provided in this chapter.

(d) The budgets and tax levies under this chapter are subject to review and modification in the manner prescribed by IC 36-3-6.

SECTION 751. IC 36-7-15.1-17, AS AMENDED BY P.L.219-2007, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 19 of this chapter, the taxes allocated under section 26 of this chapter, or other revenues of the redevelopment district, the commission may, by resolution, issue the bonds of the redevelopment district in the name of the consolidated city and in accordance with IC 36-3-5-8. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted in this chapter and a debt service reserve for the bonds, to the extent that the redevelopment commission determines that a reserve is reasonably required;

(4) the total cost of all clearing and construction work provided for in the resolution; and

(5) expenses that the commission is required or permitted to pay

under IC 8-23-17.

(b) If the commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable subject to the requirements of the bond resolution for the registration of the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed:

(A) fifty (50) years, **for bonds issued before July 1, 2008; or**

(B) twenty-five (25) years, for bonds issued after June 30, 2008.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the commission.

(d) The commission shall certify a copy of the resolution authorizing the bonds to the fiscal officer of the consolidated city, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds shall be executed by the city executive and attested by the fiscal officer. The interest coupons, if any, shall be executed by the facsimile signature of the fiscal officer.

(f) The bonds are exempt from taxation as provided by IC 6-8-5.

(g) The city fiscal officer shall sell the bonds according to law. Notwithstanding IC 36-3-5-8, bonds payable solely or in part from tax proceeds allocated under section 26(b)(2) of this chapter or other revenues of the district may be sold at private negotiated sale and at a price or prices not less than ninety-seven percent (97%) of the par value.

(h) The bonds are not a corporate obligation of the city but are an indebtedness of the redevelopment district. The bonds and interest are payable:

(1) from a special tax levied upon all of the property in the redevelopment district, as provided by section 19 of this chapter;

(2) from the tax proceeds allocated under section 26(b)(2) of this chapter;

(3) from other revenues available to the commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3);

and from any revenues of the designated project. If the bonds are payable

solely from the tax proceeds allocated under section 26(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(i) Proceeds from the sale of the bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issue.

(j) Notwithstanding IC 36-3-5-8, the laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against, **or vote on,** the issuance of bonds applicable to bonds issued under this chapter do not apply to bonds payable solely or in part from tax proceeds allocated under section 26(b)(2) of this chapter, other revenues of the commission, or any combination of these sources.

(k) If bonds are issued under this chapter that are payable solely or in part from revenues to the commission from a project or projects, the commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission. The commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the commission that are payable solely from revenues of the commission must contain a statement to that effect in the form of bond.

SECTION 752. IC 36-7-15.1-17.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17.1. (a) A commission may enter into a lease of any property that may be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed:

> **(1)** fifty (50) years, **for a lease entered into before July 1, 2008; or**
> **(2) twenty-five (25) years, for a lease entered into after June 30, 2008.**

The lease may provide for payments to be made by the commission from special benefits taxes levied under section 19 of this chapter, taxes allocated under section 26 of this chapter, any other revenue available to the commission, or any combination of these sources.

(b) A lease may provide that payments by the commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the commission only after a public hearing by the commission at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the commission may adopt a resolution authorizing the execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the commission must be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the commission in whole or in part from the levy of special benefits taxes under section 19 of this chapter and upon approval of the lease by the fiscal body, the commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the redevelopment district, which must be not less than five (5) or more than thirty (30) days after the time for the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of

the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable, is final.

(e) A commission entering into a lease payable from allocated taxes under section 26 of this chapter or revenues or other available funds of the commission may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; and

(2) establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the commission to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of any governmental body or agency are required before the commission enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30) days after the decision of the department.

(h) If a commission exercises an option to buy a leased facility from a lessor, the commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days after the hearing.

SECTION 753. IC 36-7-15.1-22.5, AS AMENDED BY P.L.163-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22.5. (a) **Subject to the approval of the county fiscal body,** the commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

(1) The real property meets at least one (1) of the conditions described in IC 32-24-4.5-7(1).

(2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(3) The real property suffers from one (1) or more of the conditions listed in IC 36-7-1-3, resulting in a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the county's median income for families. However, a nonprofit organization is eligible for a sale or grant under this subdivision only if the county fiscal body has determined that the nonprofit organization meets the criteria established under subsection (f).

(4) Any other purpose appropriate under this chapter so long as it

will serve or benefit families whose income is at or below the county's median income for families.

(f) The county fiscal body shall establish criteria for determining the eligibility of neighborhood development corporations and other nonprofit corporations for sales and grants of real property under subsection (e)(3). A neighborhood development corporation or other nonprofit corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

(g) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

SECTION 754. IC 36-7-15.1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) **Subject to the approval of the legislative body of the consolidated city, and** in order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project, urban renewal project, economic development plan, or housing program;

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section;

the commission may apply for and accept advances, short term and long term loans, grants, contributions, loan guarantees, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may apply for and accept loans under this section from sources other than the federal government or federal agencies but only if the loans are unconditionally guaranteed by the federal government or federal agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the consolidated city or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) **Subject to the approval of the fiscal body of the consolidated**

city, the commission may issue and sell bonds, notes, or warrants:

(1) to the federal government to evidence short term or long term loans made under this section; or

(2) to persons or entities other than the federal government to evidence short or long term loans made under this section that are unconditionally guaranteed by the federal government or federal agencies;

without notice of sale being given or a public offering being made.

(c) Notwithstanding any other law, bonds, notes, or warrants issued by the commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the city or redevelopment district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the commission under this chapter or by grant funds from the federal government, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation as provided by IC 6-8-5.

(f) Bonds, notes, or warrants issued under this section shall be executed by the city executive and attested by the fiscal officer in the name of the "City of _____, Department of Metropolitan Development".

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the commission shall certify a copy of that resolution to the officers of the city who have duties with respect to bonds, notes, or warrants of the city. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the city who have duties with respect to the sale of bonds, notes, or warrants of the city. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if he had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 755. IC 36-7-15.1-26, AS AMENDED BY P.L.154-2006, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. ~~that~~ **For an allocation area established before July 1, 2008, the expiration date** may not be more than thirty (30) years after the date on which the allocation provision is established. **For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the allocation provision is established.** However, **with respect to bonds or other obligations that were issued before July 1, 2008,** if **any of the** bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain

outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements ~~in~~ **that are physically located in or physically connected to** that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities,

and other items set forth in section 17 of this chapter) ~~in~~ **that are physically located in or physically connected to** that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility ~~in~~ **that is physically located in or physically connected to** that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the ~~base~~ assessed value **of the taxable property in the allocation area for the most recent assessment date minus the base assessed value,** when multiplied by the estimated tax rate of the ~~allocated~~ **allocation** area, will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective

taxing units in the manner prescribed in subdivision (1); **or**

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax

proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce

less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 756. IC 36-7-15.1-26.9, AS AMENDED BY P.L.224-2007, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.9. (a) The definitions set forth in section 26.5 of this chapter apply to this section.

(b) The fiscal officer of the consolidated city shall publish in the newspaper in the county with the largest circulation all determinations made under section 26.5 or 26.7 of this chapter that result in the allowance or disallowance of credits. The publication of a determination made under section 26.5 of this chapter shall be made not later than June 20 of the year in which the determination is made. The publication of a determination made under section 26.7 of this chapter shall be made not later than December 5 of the year in which the determination is made.

(c) If credits are granted under section 26.5(g) or 26.5(h) of this chapter, whether in whole or in part, property taxes on personal property (as defined in IC 6-1.1-1-11) that are equal to the aggregate amounts of the credits for all taxpayers in the allocation area under section 26.5(g) and 26.5(h) of this chapter shall be:

(1) allocated to the redevelopment district;

(2) paid into the special fund for that allocation area; and

(3) used for the purposes specified in section 26 of this chapter.

(d) The county auditor shall adjust the estimate of assessed valuation that the auditor certifies under IC 6-1.1-17-1 for all taxing units in which the allocation area is located. The county auditor may amend this adjustment at any time before the earliest date a taxing unit must publish the unit's proposed property tax rate under IC 6-1.1-17-3 in the year preceding the year in which the credits under section 26.5(g) or 26.5(h) of this chapter are paid. The auditor's adjustment to the assessed valuation shall be:

(1) calculated to produce an estimated assessed valuation that will offset the effect that paying personal property taxes into the allocation area special fund under subsection (c) would otherwise have on the ability of a taxing unit to achieve the taxing unit's tax levy in the following year; and

(2) used by the county board of tax adjustment, ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008),~~ the department of local government finance, and each taxing unit in determining each taxing unit's tax rate and tax levy in the following year.

(e) The amount by which a taxing unit's levy is adjusted as a result of the county auditor's adjustment of assessed valuation under subsection (d), and the amount of the levy that is used to make direct payments to taxpayers under section 26.5(h) of this chapter, is not part of the total county tax levy under IC 6-1.1-21-2(g) and is not subject to IC 6-1.1-20.

(f) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5-3 and IC 20-45-3 **(before its repeal)** do not apply to ad valorem property taxes imposed that are used to offset the effect of paying personal property taxes into an allocation area special fund during the taxable year under subsection (d) or to make direct payments to taxpayers under section 26.5(h) of this chapter. For purposes of computing the ad valorem property tax levy limits imposed under IC 6-1.1-18.5-3 and IC 20-45-3 **(before its repeal),** a taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed to offset the effect of paying personal property taxes into an allocation area special fund under subsection (d) or to make direct payments to taxpayers under section 26.5(h) of this chapter.

(g) Property taxes on personal property that are deposited in the allocation area special fund:

(1) are subject to any pledge of allocated property tax proceeds made by the redevelopment district under section 26(d) of this chapter,

including but not limited to any pledge made to owners of outstanding bonds of the redevelopment district of allocated taxes from that area; and

(2) may not be treated as property taxes used to pay interest or principal due on debt under IC 6-1.1-21-2(g)(1)(D) **(before its repeal).**

SECTION 757. IC 36-7-15.1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. (a) The commission may, by following the procedures set forth in sections 8, 9, and 10 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 11 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds:

(1) the plan for the economic development area:

(A) promotes significant opportunities for the gainful employment of its citizens;

(B) attracts a major new business enterprise to the unit;

(C) retains or expands a significant business enterprise existing in the boundaries of the unit; or

(D) meets other purposes of this section and sections 28 and 30 of this chapter;

(2) the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 28 and 30 of this chapter because of:

(A) lack of local public improvement;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land;

(C) multiple ownership of land; or

(D) other similar conditions;

(3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;

(4) the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:

(A) attraction or retention of permanent jobs;

(B) increase in the property tax base;

(C) improved diversity of the economic base; or

(D) other similar public benefits; and

(5) the plan for the economic development area conforms to the comprehensive plan of development for the consolidated city.

(c) The determination that a geographic area is an economic development area must be approved by the city-county legislative body. The approval may be given either before or after judicial review is requested. The requirement that the city-county legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area. However, the enlargement of any boundary in the economic development area must be approved by the city-county legislative body, **and a boundary may not be enlarged unless:**

(1) the existing area does not generate sufficient revenue to meet the financial obligations of the original project; or

(2) the Indiana economic development corporation has, in the manner provided by section 8(f) of this chapter, made a finding approving the enlargement of the boundary.

SECTION 758. IC 36-7-15.1-30, AS AMENDED BY P.L.185-2005, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. (a) All of the rights, powers, privileges, and immunities that may be exercised by the commission in a redevelopment project area or urban renewal area may be exercised by the commission in an economic development area, subject to the following:

(1) The content and manner of exercise of these rights, powers, privileges, and immunities shall be determined by the purposes and nature of an economic development area.

(2) Real property (or interests in real property) relative to which action is taken under this section or section 28 or 29 of this chapter in an economic development area is not required to meet the conditions described in IC 36-7-1-3.

(3) The special tax levied in accordance with section 16 of this chapter may be used to carry out activities under this chapter in economic development areas.

(4) Bonds may be issued in accordance with section 17 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas **if no other revenue sources are available for this purpose.**

(5) The tax exemptions set forth in section 25 of this chapter are applicable in economic development areas.

(6) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes.

(7) The commission may not use its power of eminent domain under section 13 of this chapter to carry out activities under this chapter in economic development areas.

(b) The content and manner of discharge of duties set forth in section 6 of this chapter shall be determined by the purposes and nature of an economic development area.

SECTION 759. IC 36-7-15.1-32, AS AMENDED BY P.L.219-2007, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 32. (a) The commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, township assessors **(if any),** and the county assessor with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 760. IC 36-7-15.1-35, AS AMENDED BY P.L.219-2007, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. (a) Notwithstanding section 26(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 32 of this chapter, "base assessed value" means the net assessed value of all of the land as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 26(g) of this chapter. However, "base assessed value" does not include the value of real property improvements to the land.

(b) The special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units

within the allocation area.

(2) The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) **For property taxes first due and payable before 2009,** to provide each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, this credit may be provided by the commission only if the city-county legislative body establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 32 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) Except as provided in subsection (g), the commission may

determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c), by applying one-half (1/2) of the credit to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in a year. Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 17.1 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 26(b) of this chapter, the special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 26(b)(2)(A) through 26(b)(2)(H) of this chapter.

(2) Reimburse the consolidated city for expenditures made by the city in order to accomplish the housing program in that allocation area.

The special fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 26(b) of this chapter, the commission shall, relative to the special fund established under section 26(b) of this chapter for an allocation area for a program adopted under section 32 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which ~~property taxes payable to the allocation fund in the following year~~ **the assessed value of the taxable property in the allocation area, when multiplied by the estimated tax rate of the allocation area,** will exceed the amount

of **assessed value needed to produce the** property taxes necessary:

(A) to make, when due, principal and interest payments on bonds described in section 26(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 26(b)(2) of this chapter; and

(C) to reimburse the consolidated city for anticipated expenditures described in subsection (e)(2).

(2) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(A) state the amount, if any, of excess ~~property taxes~~ **assessed value** that the commission has determined may be ~~paid~~ **allocated** to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter; **or**

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter.

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 761. IC 36-7-15.1-40, AS AMENDED BY P.L.185-2005, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. (a) A commission shall establish a redevelopment project area by following the procedures set forth in sections 8 through 10 of this chapter. The establishment of a redevelopment project area under this subsection must also be approved by resolution of the legislative body

of the excluded city.

(b) A commission may amend a resolution or plan for a redevelopment project area or economic development area by following the procedures ~~of section~~ **set forth in sections 8 through** 10.5 of this chapter. An amendment made under this subsection must also be approved by resolution of the legislative body of the excluded city.

(c) A person who filed a written remonstrance with the commission under subsection (a) and is aggrieved by the final action taken may seek appeal of the action by following the procedures for appeal set forth in section 11 of this chapter. The appeal hearing is governed by the procedures of section 11(b) of this chapter.

SECTION 762. IC 36-7-15.1-45, AS AMENDED BY P.L.219-2007, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 45. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 50 of this chapter, the taxes allocated under section 53 of this chapter, or other revenues of the redevelopment district, a commission may, by resolution, issue the bonds of its redevelopment district in the name of the excluded city. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted in this chapter and a debt service reserve for the bonds, to the extent that the redevelopment commission determines that a reserve is reasonably required;

(4) the total cost of all clearing and construction work provided for in the resolution; and

(5) expenses that the commission is required or permitted to pay under IC 8-23-17.

(b) If a commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, a commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and

negotiable subject to the requirements concerning registration of the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed:

(A) fifty (50) years, **for bonds issued before July 1, 2008; or**

(B) twenty-five (25) years, for bonds issued after June 30, 2008.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the commission.

(d) The commission shall certify a copy of the resolution authorizing the bonds to the fiscal officer of the excluded city, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds shall be executed by the excluded city executive and attested by the excluded city fiscal officer. The interest coupons, if any, shall be executed by the facsimile signature of the excluded city fiscal officer.

(f) The bonds are exempt from taxation as provided by IC 6-8-5.

(g) The excluded city fiscal officer shall sell the bonds according to law. Bonds payable solely or in part from tax proceeds allocated under section 53(b)(2) of this chapter or other revenues of the district may be sold at private negotiated sale and at a price or prices not less than ninety-seven percent (97%) of the par value.

(h) The bonds are not a corporate obligation of the excluded city but are an indebtedness of the redevelopment district. The bonds and interest are payable:

(1) from a special tax levied upon all of the property in the redevelopment district, as provided by section 50 of this chapter;

(2) from the tax proceeds allocated under section 53(b)(2) of this chapter;

(3) from other revenues available to the commission; or

(4) from a combination of the methods described in subdivisions (1) through (3);

and from any revenues of the designated project. If the bonds are payable solely from the tax proceeds allocated under section 53(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(i) Proceeds from the sale of the bonds may be used to pay the cost of

interest on the bonds for a period not to exceed five (5) years from the date of issue.

(j) The laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against, **or vote on,** the issuance of bonds applicable to bonds issued under this chapter do not apply to bonds payable solely or in part from tax proceeds allocated under section 53(b)(2) of this chapter, other revenues of the commission, or any combination of these sources.

(k) If bonds are issued under this chapter that are payable solely or in part from revenues to a commission from a project or projects, a commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission. The commission may establish fees and charges for the use of any project and covenant with the owners of bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the commission that are payable solely from revenues of the commission must contain a statement to that effect in the form of bond.

SECTION 763. IC 36-7-15.1-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46. (a) A commission may enter into a lease of any property that may be financed with the proceeds of bonds issued under section 45 of this chapter with a lessor for a term not to exceed:

> **(1)** fifty (50) years, **for a lease entered into before July 1, 2008; or**
> **(2) twenty-five (25) years, for a lease entered into after June 30, 2008.**

The lease may provide for payments to be made by the commission from special benefits taxes levied under section 50 of this chapter, taxes allocated under section 53 of this chapter, any other revenue available to the commission, or any combination of these sources.

(b) A lease may provide that payments by the commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution

of the State of Indiana.

(c) A lease may be entered into by the commission only after a public hearing by the commission at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the commission may adopt a resolution authorizing the execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the commission must be approved by an ordinance of the fiscal body of the excluded city.

(d) Upon execution of a lease providing for payments by the commission in whole or in part from the levy of special benefits taxes under section 50 of this chapter and upon approval of the lease by the fiscal body, the commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of the petition, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the redevelopment district, which must not be less than five (5) or more than thirty (30) days after the time for the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable,

is final.

(e) A commission entering into a lease payable from allocated taxes under section 53 of this chapter or revenues or other available funds of the commission may:

(1) pledge the revenue to make payments under the lease as provided in IC 5-1-14-4; and

(2) establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the commission to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of any governmental body or agency are required before the commission enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30) days after the decision of the department of local government finance.

(h) If a commission exercises an option to buy a leased facility from a lessor, the commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days after the hearing.

SECTION 764. IC 36-7-15.1-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 51. (a) **Subject to the approval of the legislative body of the consolidated city, and** in order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project or economic development plan;

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section;

the commission may apply for and accept advances, short term and long term loans, grants, contributions, loan guarantees, and any other form of financial assistance from the federal government or from any of its agencies. The commission may apply for and accept loans under this section from sources other than the federal government or federal agencies, but only if the loans are unconditionally guaranteed by the federal government or federal agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, if those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds as all other provisions are valid and binding on the excluded city or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) **Subject to the approval of the fiscal body of the consolidated city,** the commission may issue and sell bonds, notes, or warrants:

(1) to the federal government to evidence short term or long term loans made under this section; or

(2) to persons or entities other than the federal government to evidence short or long term loans made under this section that are unconditionally guaranteed by the federal government or federal agencies;

without notice of sale being given or a public offering being made.

(c) Notwithstanding any other law, bonds, notes, or warrants issued by the commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand), and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and

provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the excluded city or its redevelopment district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes but are payable only from and secured only by income, funds, and properties of the project becoming available to the commission under this chapter or by grant funds from the federal government, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation as provided by IC 6-8-5.

(f) Bonds, notes, or warrants issued under this section shall be executed by the city executive and attested by the fiscal officer in the name of the "City (or Town) of _____, for and on behalf of its Redevelopment District".

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the commission shall certify a copy of that resolution to the officers of the excluded city who have duties with respect to bonds, notes, or warrants of the excluded city. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the excluded city who have duties with respect to the sale of bonds, notes, or warrants of the excluded city. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If, at any time during the life of a loan contract or agreement under this section, the commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the

federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 765. IC 36-7-15.1-53, AS AMENDED BY P.L.154-2006, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 53. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Except as provided in section 55 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A resolution adopted under section 40 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision must be approved by resolution of the legislative body of the excluded city and must specify an expiration date for the allocation

provision. ~~that~~ **For an allocation area established before July 1, 2008, the expiration date** may not be more than thirty (30) years after the date on which the allocation provision is established. **For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the allocation provision is established.** However, **with respect to bonds or other obligations that were issued before July 1, 2008,** if **any of the** bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the

excluded city to pay for local public improvements ~~in~~ **that are physically located in or physically connected to** that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities, and other items set forth in section 45 of this chapter) ~~in~~ **that are physically located in or physically connected to** that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility ~~in~~ **that is physically located in or physically connected to** that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which ~~property taxes payable to the allocation fund in the following year~~ **the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area,** will exceed the amount of assessed value needed to provide

the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); **or**

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each

political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government

finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 766. IC 36-7-15.1-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 57. (a) The commission may, by following the procedures set forth in sections 8, 9, and 10 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 11 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds that:

(1) the plan for the economic development area:

(A) promotes significant opportunities for the gainful employment of its citizens;

(B) attracts a major new business enterprise to the unit;

(C) retains or expands a significant business enterprise existing in the boundaries of the unit; or

(D) meets other purposes of this section and sections 28 and 58 of this chapter;

(2) the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 28 and 58 of this chapter because of:

(A) lack of local public improvement;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land;

(C) multiple ownership of land; or

(D) other similar conditions;

(3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;

(4) the accomplishment of the plan for the economic development area will be of public utility and benefit as measured by:

(A) attraction or retention of permanent jobs;

(B) increase in the property tax base;

(C) improved diversity of the economic base; or

(D) other similar public benefits; and

(5) the plan for the economic development area conforms to the comprehensive plan of development for the county.

(c) The determination that a geographic area is an economic development area must be approved by the excluded city legislative body. The approval may be given either before or after judicial review is requested. The requirement that the excluded city legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area. However, the enlargement of any boundary in the economic development area must be approved by the excluded city legislative body, **and a boundary may not be enlarged unless:**

(1) the existing area does not generate sufficient revenue to meet the financial obligations of the original project; or

(2) the Indiana economic development corporation has, in the manner provided by section 8(f) of this chapter, made a finding approving the enlargement of the boundary.

SECTION 767. IC 36-7-15.1-58, AS AMENDED BY P.L.185-2005, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. (a) All of the rights, powers, privileges, and immunities that may be exercised by a commission in a redevelopment project area may be exercised by a commission in an economic development area, subject to the following:

(1) The content and manner of exercise of these rights, powers, privileges, and immunities shall be determined by the purposes and nature of an economic development area.

(2) Real property (or interests in real property) relative to which action is taken under this section or section 28 or 57 of this chapter in an economic development area is not required to meet the conditions described in IC 36-7-1-3.

(3) Bonds may be issued in accordance with section 45 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas **if no other revenue sources are available for this purpose.**

(4) The tax exemptions set forth in section 52 of this chapter are applicable in economic development areas.

(5) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes. However, a declaratory resolution or an amendment that establishes an allocation area must be approved by resolution of the legislative body of the excluded city.

(6) The excluded city legislative body may not use its power of eminent domain under section 39 of this chapter to carry out activities under this chapter in economic development areas.

(b) The content and manner of discharge of duties set forth in section 39(a) of this chapter shall be determined by the purposes and nature of an economic development area.

SECTION 768. IC 36-7-15.3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) The authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring property;

(2) constructing, improving, reconstructing, or renovating one (1) or more local public improvements; or

(3) funding or refunding bonds issued under this chapter or

IC 36-7-15.1.

(b) The bonds are payable solely from the lease rentals from the lease of the local public improvement for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within:

(1) fifty (50) years, **for bonds issued before July 1, 2008; or**

(2) twenty-five (25) years, for bonds issued after June 30, 2008.

(f) The board shall sell the bonds at public or private sale upon such terms as determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of local public improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the local public improvements ~~that are necessary or desirable to make the local public improvements~~ suitable for use and operations;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the board, but in no event to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, and interest on, the bonds being refunded or refinanced.

SECTION 769. IC 36-7-26-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 25. The board may

not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district. ~~subject to the granting of an additional credit under IC 36-7-14-39.5.~~ The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

SECTION 770. IC 36-7-30-25, AS AMENDED BY P.L.154-2006, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 25. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base reuse area to which an allocation provision of a declaratory resolution adopted under section 10 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment thereto, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Clause (C) applies only to allocation areas established in a military reuse area after June 30, 1997, and to the part of an allocation area that was established before June 30, 1997, and that is added to an existing allocation area after June 30, 1997.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 10 of this chapter

before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 13 of this chapter. The allocation provision may apply to all or part of the military base reuse area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the military base reuse district and, when collected, paid into an allocation fund for that allocation area that may be used by the military base reuse district and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the military base reuse district or any other entity for the purpose of financing or refinancing military base reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the reuse authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.

(E) **For property taxes first due and payable before 2009,** pay all or a part of a property tax replacement credit to taxpayers in

an allocation area as determined by the reuse authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 27 of this chapter **(before its repeal)** in the same year.

(F) Pay expenses incurred by the reuse authority for local public improvements or structures that were in the allocation area or directly serving or benefiting the allocation area.

(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment

financing are made.

The allocation fund may not be used for operating expenses of the reuse authority.

(3) Except as provided in subsection (g), before July 15 of each year the reuse authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the fiscal body of the unit that established the reuse authority, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(i) state the amount, if any, of ~~the amount of~~ excess property taxes that the reuse authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1); **or**

(ii) state that the reuse authority has determined that there are no excess property tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess property tax proceeds determined by the reuse authority. The reuse authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 19 of this chapter. Property taxes received by a taxing unit under this subdivision **before 2009** are eligible for the property tax replacement credit provided under IC 6-1.1-21.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base reuse district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base reuse district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the reuse authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except

that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base reuse district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base reuse district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base reuse district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

SECTION 771. IC 36-7-30-31, AS AMENDED BY P.L.219-2007, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.
(2) Owner.
(3) Person.
(4) Personal property.
(5) Property taxation.
(6) Tangible property.
(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) The general assembly finds the following:

(1) That the closing of a military base in a unit results in an increased cost to the unit of providing governmental services to the area formerly occupied by the military base.

(2) That military base property held by a reuse authority is exempt from property taxation, resulting in the lack of an adequate tax base to support the increased governmental services.

(3) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the fiscal body of the unit should be authorized to collect PILOTS from the reuse authority.

(4) That the appropriate maximum PILOTS would be the amount of the property taxes that would be paid if the tangible property were not exempt.

(d) The fiscal body of the unit may adopt an ordinance to require a reuse authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the reuse authority is the owner or the lessee and that is exempt from property taxes. The ordinance remains in full force and effect until repealed or modified by the fiscal body.

(e) The PILOTS must be calculated so that the PILOTS do not exceed the amount of property taxes that would have been levied by the fiscal body for the unit upon the tangible property described in subsection (d) if the property were not exempt from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (d). Except as provided in subsection (j), the township ~~assessors~~ **assessor, or the county assessor if there is no township assessor for the township,** shall assess the tangible property described in subsection (d) as though the property were not exempt. The reuse authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a reuse authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The reuse authority may consider these payments to be operating expenses for all purposes.

(h) PILOTS shall be deposited in the general fund of the unit and used for any purpose for which the general fund may be used.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as property taxes for purposes of all procedural and substantive provisions of law.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 772. IC 36-7-30.5-30, AS AMENDED BY P.L.154-2006, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 30. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base development area to which an allocation provision of a declaratory resolution adopted under section 16 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment to the declaratory resolution, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 16 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 18 of this chapter. The allocation provision may apply to all or part of the military base development area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the development authority and, when collected, paid into an allocation fund for that allocation area that may be used by the development authority and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the development authority or any other entity for the purpose of financing or refinancing military base development or reuse activities in or directly serving or benefitting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the development authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefitting that allocation area.

(E) **For property taxes first due and payable before 2009,** pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the development authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; by

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been

allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 32 of this chapter **(before its repeal)** in the same year.

(F) Pay expenses incurred by the development authority for local public improvements or structures that were in the allocation area or directly serving or benefitting the allocation area.

(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the development authority.

(3) Except as provided in subsection (g), before July 15 of each year the development authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) ~~Notify~~ **Provide a written notice to** the appropriate county ~~auditor of~~ **auditors and the fiscal bodies and other officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(i) state the amount, if any, of the ~~amount of~~ excess property taxes that the development authority has determined may be

paid to the respective taxing units in the manner prescribed in subdivision (1); **or**

(ii) state that the development authority has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditors shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the development authority. The development authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 24 of this chapter. Property taxes received by a taxing unit under this subdivision **before 2009** are eligible for the property tax replacement credit provided under IC 6-1.1-21.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base development district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base development district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the development authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the development authority shall create funds as specified in this subsection. A development authority that has obligations,

bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. The development authority shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A development authority that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The development authority that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or for other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to an allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base development district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base development district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base development district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual

adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

SECTION 773. IC 36-7-30.5-34, AS AMENDED BY P.L.219-2007, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.
(2) Owner.
(3) Person.
(4) Personal property.
(5) Property taxation.
(6) Tangible property.
(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) The general assembly finds the following:

(1) That the closing of a military base in a unit results in an increased cost to the unit of providing governmental services to the area formerly occupied by the military base.

(2) That military base property held by a development authority is exempt from property taxation, resulting in the lack of an adequate tax base to support the increased governmental services.

(3) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the fiscal body of the unit should be authorized to collect PILOTS from the development authority.

(4) That the appropriate maximum PILOTS would be the amount of the property taxes that would be paid if the tangible property were not exempt.

(d) The fiscal body of the unit may adopt an ordinance to require a development authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the development authority is the owner or the lessee and that is exempt from property taxes. The ordinance remains in full force and effect until repealed or modified by the fiscal body.

(e) The PILOTS must be calculated so that the PILOTS do not exceed the amount of property taxes that would have been levied by the fiscal body for the unit upon the tangible property described in subsection (d) if the property were not exempt from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based

on the assessed value of the tangible property described in subsection (d). Except as provided in subsection (j), the township ~~assessors~~ **assessor, or the county assessor if there is no township assessor for the township,** shall assess the tangible property described in subsection (d) as though the property were not exempt. The development authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a development authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The development authority may consider these payments to be operating expenses for all purposes.

(h) PILOTS shall be deposited in the general fund of the unit and used for any purpose for which the general fund may be used.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as property taxes for purposes of all procedural and substantive provisions of law.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 774. IC 36-7-32-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) An allocation provision adopted under section 15 of this chapter must:

(1) apply to the entire certified technology park; and

(2) require that any property tax on taxable property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the certified technology park be allocated and distributed as provided in subsections (b) and (c).

(b) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(1) the assessed value of the taxable property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

(c) Except as provided in subsection (d), all the property tax proceeds that exceed those described in subsection (b) shall be allocated to the redevelopment commission for the certified technology park and, when collected, paid into the certified technology park fund established under section 23 of this chapter.

(d) Before July 15 of each year, the redevelopment commission shall do the following:

(1) Determine the amount, if any, by which the property tax proceeds to be deposited in the certified technology park fund will exceed the amount necessary for the purposes described in section 23 of this chapter.

(2) ~~Notify~~ **Provide a written notice to** the county auditor, ~~of~~ **the fiscal body of the county or municipality that established the redevelopment commission, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:**

(A) state the amount, if any, of excess tax proceeds that the redevelopment commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (c); **or**

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The redevelopment commission may not authorize an allocation of property tax proceeds under this subdivision if to do so would endanger the interests of the holders of bonds described in section 24 of this chapter.

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the certified technology park effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the certified technology park, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the taxable property as valued without regard to this section; or

(2) the base assessed value.

SECTION 775. IC 36-7.6-4-16, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. (a) This section applies if:

(1) a county or municipality that is a member of a development authority fails to make a transfer or a part of a transfer required by section 2 of this chapter; and

(2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall ~~notwithstanding IC 6-1.1-21,~~ do the following:

(1) ~~Reduce the next distribution of property tax replacement credits under IC 6-1.1-21 to the county or municipality that failed to make a transfer or part of a transfer and~~ Withhold an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the ~~unit~~ **county or municipality** failed to make **from money in the possession of the state that would otherwise be available for distribution to the county or municipality under any other law.**

(2) Pay the amount withheld under subdivision (1) to the development authority.

SECTION 776. IC 36-8-6-5, AS AMENDED BY P.L.224-2007, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the municipality is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1925 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 4(a) of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) The local board may provide in its annual budget and pay all necessary expenses of operating the 1925 fund, including the payment of all costs of litigation and attorney fees arising in connection with the fund, as well as the payment of benefits and pensions. Notwithstanding any other law, neither the municipal legislative body, the county board of tax adjustment, ~~(before January 1, 2009), the county board of tax and capital~~

~~projects review (after December 31, 2008),~~ nor the department of local government finance may reduce an item of expenditure.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled;

(2) the name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(d) The total receipts shall be deducted from the total expenditures stated in the itemized estimate and the amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the municipality in the same manner as other expenses of the municipality are paid. A tax levy shall be made annually for this purpose, as provided in subsection (e). The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other municipal offices and departments are prepared and filed.

(e) The municipal legislative body shall levy an annual tax in the amount and at the rate that are necessary to produce the revenue to pay that part of the police pensions that the municipality is obligated to pay. All money derived from the levy is for the exclusive use of the police pensions and benefits. The amounts in the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the municipality. The legislative body shall make a levy for them that will yield an amount equal to the estimated disbursements, less the amount of the estimated receipts. Notwithstanding any other law, neither the county board of tax adjustment ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ nor the department of local government finance may reduce the levy.

SECTION 777. IC 36-8-7-14, AS AMENDED BY P.L.224-2007, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The local board shall meet annually and

prepare an itemized estimate, in the form prescribed by the state board of accounts, of the amount of money that will be receipted into and disbursed from the 1937 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements must be divided into two (2) parts, designated as part 1 and part 2.

(b) Part 1 of the estimated disbursements consists of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the next fiscal year, and to the dependents of deceased members. Part 2 of the estimated disbursements consists of an estimate of the amount of money that will be needed to pay death benefits and other expenditures that are authorized or required by this chapter.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing the following:

(1) The name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled.

(2) The name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive.

(3) The name and the age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(4) The amount that would be required for the next fiscal year to maintain level cost funding during the active fund members' employment on an actuarial basis.

(5) The amount that would be required for the next fiscal year to amortize accrued liability for active members, retired members, and dependents over a period determined by the local board, but not to exceed forty (40) years.

(d) The total receipts shall be deducted from the total expenditures as listed in the itemized estimate. The amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the unit in the

same manner as other expenses of the unit are paid, and an appropriation shall be made annually for that purpose. The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other offices and departments of the unit are prepared and filed.

(e) The estimates shall be made a part of the annual budget of the unit. When revising the estimates, the executive, the fiscal officer, and other fiduciary officers may not reduce the items in part 1 of the estimated disbursements.

(f) The unit's fiscal body shall make the appropriations necessary to pay that proportion of the budget of the 1937 fund that the unit is obligated to pay under subsection (d). In addition, the fiscal body may make appropriations for purposes of subsection (c)(4), (c)(5), or both. All appropriations shall be made to the local board for the exclusive use of the 1937 fund. The amounts listed in part 1 of the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the unit. Notwithstanding any other law, neither the county board of tax adjustment ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ nor the department of local government finance may reduce the appropriations made to pay the amount equal to estimated disbursements minus estimated receipts.

SECTION 778. IC 36-8-7-22, AS AMENDED BY P.L.224-2007, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. The 1937 fund may not be, either before or after an order for distribution to members of the fire department or to the surviving spouses or guardians of a child or children of a deceased, disabled, or retired member, held, seized, taken, subjected to, detained, or levied on by virtue of an attachment, execution, judgment, writ, interlocutory or other order, decree, or process, or proceedings of any nature issued out of or by a court in any state for the payment or satisfaction, in whole or in part, of a debt, damages, demand, claim, judgment, fine, or amercement of the member or the member's surviving spouse or children. The 1937 fund shall be kept and distributed only for the purpose of pensioning the persons named in this chapter. The local board may, however, annually expend an amount from the 1937 fund that it considers proper for the necessary expenses connected with the fund. Notwithstanding any other law, neither the fiscal body, the county board of tax adjustment, ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ nor the department of

local government finance may reduce these expenditures.

SECTION 779. IC 36-8-7.5-10, AS AMENDED BY P.L.224-2007, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid

by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax and the money derived from the levy shall, when collected, be credited exclusively to the 1953 fund. The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit. Notwithstanding any other law, neither the county board of tax adjustment ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ nor the department of local government finance may reduce the tax levy.

SECTION 780. IC 36-8-11-18, AS AMENDED BY P.L.224-2007, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The board shall annually budget the necessary money to meet the expenses of operation and maintenance of the district, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, bond redemption, and all other expenses lawfully incurred by the district. After estimating expenses and receipts of money, the board shall establish the tax levy required to fund the estimated budget.

(b) The budget must be approved by the fiscal body of the county, the county board of tax adjustment, ~~(before January 1, 2009), the county board of tax and capital projects review (after December 31, 2008),~~ and the department of local government finance.

(c) Upon approval by the department of local government finance, the board shall certify the approved tax levy to the auditor of the county having land within the district. The auditor shall have the levy entered on the county treasurer's tax records for collection. After collection of the taxes the auditor shall issue a warrant on the treasurer to transfer the revenues collected to the board, as provided by statute.

SECTION 781. IC 36-8-11-22.1, AS AMENDED BY P.L.224-2007, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.1. (a) This section applies to a district that consists of a municipality that is located in two (2) counties.

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) Sections 6 and 7 of this chapter apply to the petition.

(d) The board of fire trustees for the district shall be appointed as prescribed by section 12 of this chapter. However, the legislative body of each county within which the district is located shall jointly appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from the municipality contained in the district.

The legislative body of each county shall jointly appoint a member to fill a vacancy.

(e) Sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the district. However, the county legislative bodies serving the district shall jointly decide where the board shall locate (or approve location of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to the district. However, the budget must be approved by the county fiscal body and county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ in each county in the district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.

SECTION 782. IC 36-8-11-23, AS AMENDED BY P.L.224-2007, SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Any fire protection district may merge with one (1) or more protection districts to form a single district if at least one-eighth (1/8) of the aggregate external boundaries of the districts coincide.

(b) The legislative body of the county where at least two (2) districts are located (or if the districts are located in more than one (1) county, the legislative body of each county) shall, if petitioned by freeholders in the two (2) districts, adopt an ordinance merging the districts into a single fire protection district.

(c) Freeholders who desire the merger of at least two (2) fire protection districts must initiate proceedings by filing a petition in the office of the county auditor of each county where a district is located. The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500) from each district, of the freeholders owning land within the district; or

(2) by a majority of the freeholders from the districts;

whichever is less.

(d) The petition described in subsection (c) must state the same items listed in section 7 of this chapter. Sections 6, 8, and 9 of this chapter apply to the petition and to the legislative body of each county in the proposed district.

(e) The board of fire trustees for each district shall form a single board, which shall continue to be appointed as prescribed by section 12 of this

chapter. In addition, sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the merged district, except that if the merged district lies in more than one (1) county, the county legislative bodies serving the combined district shall jointly decide where the board shall locate (or approve relocation of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to a merged district. However, the budget must be approved by the county fiscal body and county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ in each county in the merged district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.

SECTION 783. IC 36-8-13-4.7, AS AMENDED BY P.L.224-2007, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) For a township that elects to have the township provide fire protection and emergency services under section 3(c) of this chapter, the department of local government finance shall adjust the township's maximum permissible levy in the year following the year in which the change is elected, as determined under IC 6-1.1-18.5-3, to reflect the change from providing fire protection or emergency services under a contract between the municipality and the township to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of each municipality. For the ensuing calendar year, the township's maximum permissible property tax levy shall be increased by the product of:

(1) one and five-hundredths (1.05); multiplied by

(2) the amount the township contracted or billed to receive, regardless of whether the amount was collected:

(A) in the year in which the change is elected; and

(B) as fire protection or emergency service payments from the municipalities or residents of the municipalities covered by the election under section 3(c) of this chapter.

The maximum permissible levy for a general fund or other fund of a municipality covered by the election under section 3(c) of this chapter shall be reduced for the ensuing calendar year to reflect the change to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of the municipality. The total reduction in the maximum permissible levies for all electing municipalities must equal the amount that the maximum permissible levy

for the township is increased under this subsection for contracts or billings, regardless of whether the amount was collected, less the amount actually paid from sources other than property tax revenue.

(b) For purposes of determining a township's and each municipality's maximum permissible ad valorem property tax levy under IC 6-1.1-18.5-3 for years following the first year after the year in which the change is elected, a township's and each municipality's maximum permissible ad valorem property tax levy is the levy after the adjustment made under subsection (a).

(c) The township may use the amount of a maximum permissible property tax levy computed under this section in setting budgets and property tax levies for any year in which the election in section 3(c) of this chapter is in effect. A county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ may not reduce a budget or tax levy solely because the budget or levy is based on the maximum permissible property tax levy computed under this section.

(d) Section 4.6 of this chapter does not apply to a property tax levy or a maximum property tax levy subject to this section.

SECTION 784. IC 36-8-15-19, AS AMENDED BY HEA 1137-2008, SECTION 267, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This subsection applies to a county that has a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before September 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the board, which shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the local government tax control board ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the board, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.

SECTION 785. IC 36-9-3-29, AS AMENDED BY P.L.224-2007, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. The board shall prepare an annual budget for the authority's operating and maintenance expenditures and necessary capital expenditures. Each annual budget is subject to review and modification by the:

(1) fiscal body of the county or municipality that establishes the authority; and

(2) county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ and the department of local government finance under IC 6-1.1-17.

SECTION 786. IC 36-9-3-31, AS AMENDED BY P.L.219-2007, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. (a) This section applies to an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The authority may issue revenue or general obligation bonds under this section.

(c) The board may issue revenue bonds of the authority for the purpose of procuring money to pay the cost of acquiring real or personal property for the purpose of this chapter. The issuance of bonds must be authorized by resolution of the board and approved by the county fiscal bodies of the counties in the authority before issuance. The resolution must provide for the amount, terms, and tenor of the bonds, and for the time and character of notice and mode of making sale of the bonds.

(d) The bonds are payable at the times and places determined by the board, but they may not run more than thirty (30) years after the date of their issuance and must be executed in the name of the authority by an authorized officer of the board and attested by the secretary. The interest coupons attached to the bonds may be executed by placing on them the facsimile signature of the authorized officer of the board.

(e) The president of the authority shall manage and supervise the preparation, advertisement, and sale of the bonds, subject to the authorizing ordinance. Before the sale of bonds, the president shall cause notice of the sale to be published in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold in accordance with IC 5-1-11. After the bonds have been properly sold and executed, the

executive director or president shall deliver them to the controller of the authority and take a receipt for them, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price the controller shall deliver the bonds to the purchaser, and the controller and executive director or president shall report their actions to the board.

(f) General obligation bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to **the following:**

(1) The filing of a petition requesting the issuance of bonds.

(2) The appropriation of the proceeds of bonds.

(3) The right of taxpayers to appeal and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds ~~and~~ **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) The sale of bonds for not less than their par value.

(g) Notice of the filing of a petition requesting the issuance of bonds, notice of determination to issue bonds, and notice of the appropriation of the proceeds of the bonds shall be given by posting in the offices of the authority for a period of one (1) week and by publication in accordance with IC 5-3-1.

(h) The bonds are not a corporate indebtedness of any unit, but are an indebtedness of the authority as a municipal corporation. A suit to question the validity of the bonds issued or to prevent their issuance may not be instituted after the date set for sale of the bonds, and after that date the bonds may not be contested for any cause.

(i) The bonds issued under this section and the interest on them are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

SECTION 787. IC 36-9-4-45, AS AMENDED BY P.L.219-2007, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 45. (a) Bonds issued under this chapter:

(1) shall be issued in the denomination;

(2) are payable over a period not to exceed thirty (30) years from the date of the bonds; and

(3) mature;

as determined by the ordinance authorizing the bond issue.

(b) All bonds issued under this chapter, the interest on them, and the income from them are exempt from taxation to the extent provided by IC 6-8-5-1.

(c) The provisions of IC 6-1.1-20 relating to:

(1) filing petitions requesting the issuance of bonds and giving notice of those petitions;

(2) giving notice of a hearing on the appropriation of the proceeds of the bonds;

(3) the right of taxpayers to appear and be heard on the proposed appropriation;

(4) the approval of the appropriation by the department of local government finance; and

(5) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

apply to the issuance of bonds under this chapter.

(d) A suit to question the validity of bonds issued under this chapter or to prevent their issue and sale may not be instituted after the date set for the sale of the bonds, and the bonds are incontestable after that date.

SECTION 788. IC 36-9-4-47, AS AMENDED BY P.L.224-2007, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 47. (a) The board of directors of a public transportation corporation may:

(1) borrow money in anticipation of receipt of the proceeds of taxes that have been levied by the board and have not yet been collected; and

(2) evidence this borrowing by issuing warrants of the corporation.

The money that is borrowed may be used by the corporation for payment of principal and interest on its bonds or for payment of current operating expenses.

(b) The warrants:

(1) bear the date or dates;

(2) mature at the time or times on or before December 31 following the year in which the taxes in anticipation of which the warrants are issued are due and payable;

(3) bear interest at the rate or rates and are payable at the time or times;

(4) may be in the denominations;

(5) may be in the forms, either registered or payable to bearer;

(6) are payable at the place or places, either inside or outside Indiana;

(7) are payable in the medium of payment;

(8) are subject to redemption upon the terms, including a price not exceeding par and accrued interest; and

(9) may be executed by the officers of the corporation in the manner;

provided by resolution of the board of directors. The resolution may also authorize the board to pay from the proceeds of the warrants all costs incurred in connection with the issuance of the warrants.

(c) The warrants may be authorized and issued at any time after the board of directors levies the tax or taxes in anticipation of which the warrants are issued.

(d) The warrants may be sold for not less than par value after notice inviting bids has been published in accordance with IC 5-3-1. The board of directors may also publish the notice inviting bids in other newspapers or financial journals.

(e) After the warrants are sold, they may be delivered and paid for at one (1) time or in installments.

(f) The aggregate principal amount of warrants issued in anticipation of and payable from the same tax levy or levies may not exceed eighty percent (80%) of the levy or levies, as the amount of the levy or levies is certified by the department of local government finance, or as is determined by multiplying the rate of tax as finally approved by the total assessed valuation of taxable property within the taxing district of the public transportation corporation as most recently certified by the county auditor.

(g) For purposes of this section, taxes for any year are considered to be levied when the board of directors adopts the ordinance prescribing the tax levies for the year. However, warrants may not be delivered and paid for before final approval of a tax levy or levies by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ (or, if appealed, by the department of local government finance) unless the issuance of the warrants has been approved by the department of local government finance.

(h) The warrants and the interest on them are not subject to sections 43 and 44 of this chapter and are payable solely from the proceeds of the tax

levy or levies in anticipation of which the warrants were issued. The authorizing resolution must pledge a sufficient amount of the proceeds of the tax levy or levies to the payment of the warrants and the interest.

(i) All actions of the board of directors under this section may be taken by resolution, which need not be published or posted. The resolution takes effect immediately upon its adoption by a majority of the members of the board of directors.

(j) An action to contest the validity of any tax anticipation warrants may not be brought later than ten (10) days after the sale date.

SECTION 789. IC 36-9-11.1-11, AS AMENDED BY P.L.219-2007, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. ~~Except as provided in subsection (c),~~ Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the township assessor, **or the county assessor if there is no township assessor for the township,** who shall cause the property to be upon the proper tax records.

(c) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 790. IC 36-9-13-35, AS AMENDED BY P.L.224-2007, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. The annual operating budget of a building authority is subject to review by the county board of tax adjustment ~~(before January 1, 2009) or the county board of tax and capital projects review (after December 31, 2008)~~ and then by the department of local government finance as in the case of other political subdivisions.

SECTION 791. IC 36-9-14.5-6 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Except as provided in subsection (c), the county fiscal body may provide money for the cumulative capital development fund by levying a tax in compliance with IC 6-1.1-41 on the taxable property in the county.

(b) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a county in which the county option income tax or the county adjusted gross income tax is in effect on January 1 of that year, depends upon the number of years the county has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	~~$0.05~~ **$0.0167**
1 or more	~~$0.10~~ **$0.0333**

(c) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a county in which neither the county option income tax nor the county adjusted gross income tax is in effect on January 1 of that year, depends upon the number of years the county has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	~~$0.04~~ **$0.0133**
1 or more	~~$0.07~~ **$0.0233**

SECTION 792. IC 36-9-15.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Except as provided in subsection (c), the municipal fiscal body may provide money for the cumulative capital development fund by levying a tax in compliance with IC 6-1.1-41 on the taxable property in the municipality.

(b) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a municipality that is either wholly or partially located in a county in which the county option income tax or the county adjusted gross income tax is in effect on January 1 of that year depends upon the number of years the municipality has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED

	VALUATION
0	~~$0.05~~ **$0.0167**
1	~~$0.10~~ **$0.0333**
2 or more	~~$0.15~~ **$0.05**

(c) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a municipality that is wholly located in a county in which neither the county option income tax nor the county adjusted gross income tax is in effect on January 1 of that year depends upon the number of years the municipality has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	~~$0.04~~ **$0.0133**
1	~~$0.08~~ **$0.0267**
2 or more	~~$0.12~~ **$0.04**

SECTION 793. IC 36-10-3-24, AS AMENDED BY P.L.219-2007, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) In order to raise money to pay for land to be acquired for any of the purposes named in this chapter, to pay for an improvement authorized by this chapter, or both, and in anticipation of the special benefit tax to be levied as provided in this chapter, the board shall cause to be issued, in the name of the unit, the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the board under section 23 of this chapter is confirmed whereby different parcels of land are to be acquired, or more than one (1) contract for work is let by the board at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars ($1,000) each, in not less than five (5) nor more than

forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the board shall certify a copy of the resolution to the unit's fiscal officer. The fiscal officer shall prepare the bonds, and the unit's executive shall execute them, attested by the fiscal officer.

(c) The bonds and the interest on them are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

(1) the filing of a petition requesting the issuance of bonds;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the appropriation of the proceeds of the bonds and approval by the department of local government finance; and

(4) the sale of bonds at public sale for not less than their par value.

(d) The board may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the unit, but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. The bonds must recite the terms upon their face, together with the purposes for which they are issued.

SECTION 794. IC 36-10-4-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. (a) In order to pay for:

(1) land to be acquired for any of the purposes of this chapter;

(2) an improvement authorized by this chapter; or

(3) both;

the board shall issue the bonds of the district in the name of the city in anticipation of the special benefits tax to be levied under this chapter. The amount of the bonds may not exceed the estimated cost of all land to be acquired and the estimated cost of all improvements provided in the

resolution, including all expenses necessarily incurred in the proceedings and a sum sufficient to pay the estimated costs of supervision and inspection during the period of construction. Expenses include all expenses actually incurred preliminary to acquisition of the land and the construction work, such as the estimated cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other expenses necessary to letting the contract and selling the bonds.

(b) The total amount of any benefits that have been assessed by the board and confirmed against lots and parcels of land, exclusive of improvements, lying within two thousand (2,000) feet on either side of the land to be acquired or of the improvement, however, shall be deducted from the estimated cost.

(c) If more than one (1) resolution or proceeding of the board under section 25 of this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the board at approximately the same time, the estimated cost involved under all of the resolutions and proceedings may be contained in one (1) issue of bonds.

(d) The bonds shall be issued in any denomination up to five thousand dollars ($5,000) each. The bonds are negotiable instruments and bear interest at a rate established by the board and approved by the city legislative body.

(e) After adopting a resolution ordering the bonds, the board shall certify a copy of the resolution to the fiscal officer of the city. The fiscal officer shall then prepare the bonds, which shall be executed by the city executive and attested by the fiscal officer. The bonds are exempt from taxation for all purposes and are subject to IC 6-1.1-20 concerning:

(1) the filing of a petition requesting the issuance of bonds; and

(2) the right of:

(A) taxpayers to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(f) All bonds shall be sold at not less than par value plus accrued interest to date of delivery by the city fiscal officer to the highest bidder after giving notice of the sale of the bonds by publication in accordance with IC 5-3-1.

(g) The bonds are subject to approval by the city legislative body, in the manner it prescribes by ordinance or resolution.

(h) The bonds are not corporate obligations or indebtedness of the city, but are an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all property of the district. The bonds must recite these terms upon their face, together with the purposes for which they are issued.

(i) An action to question the validity of bonds of the district or to prevent their issue may not be brought after the date set for the sale of the bonds.

(j) The board may, instead of selling the bonds in series, sell the bonds to run for a period of five (5) years from the date of issue for the purposes of this chapter at any rate of interest payable semiannually, also exempt from taxation for all purposes. The board may sell bonds in series to refund the five (5) year bonds.

SECTION 795. IC 36-10-7.5-22, AS AMENDED BY P.L.219-2007, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) To raise money to pay for land to be acquired for any of the purposes named in this chapter or to pay for an improvement authorized by this chapter, and in anticipation of the special benefit tax to be levied as provided in this chapter, the legislative body shall issue in the name of the township the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the legislative body under this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the executive at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars ($1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the

legislative body shall certify a copy of the resolution to the township's fiscal officer. The fiscal officer shall prepare the bonds, and the executive shall execute the bonds, attested by the fiscal officer.

(c) The bonds and the interest on the bonds are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

(1) the filing of a petition requesting the issuance of bonds;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the appropriation of the proceeds of the bonds with the approval of the department of local government finance; and

(4) the sale of bonds at public sale for not less than the par value of the bonds.

(d) The legislative body may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the total adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the township but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. A bond must recite the terms upon the face of the bond, together with the purposes for which the bond is issued.

SECTION 796. IC 36-10-8-16, AS AMENDED BY P.L.219-2007, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the authority was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in

part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the authority was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, ~~as~~ **at** the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

SECTION 797. IC 36-10-9-15, AS AMENDED BY P.L.219-2007, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the board of commissioners of the county authorizing the issuance of general obligation bonds. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the board of commissioners of the county, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the board of commissioners of the county may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds **in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or**

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed

appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale for not less than par value;

are applicable to the issuance of bonds under this section.

SECTION 798. IC 36-10-13-5, AS AMENDED BY P.L.2-2006, SECTION 195, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) This section applies only to a school corporation in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) To provide funding for a historical society under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent ($0.005) on each one hundred dollars ($100) of assessed valuation in the school corporation.

~~(c) A tax under this section is not subject to the maximum permissible tuition support levy limitations imposed on the school corporation by IC 20-45-3.~~

~~(d)~~ **(c)** The school corporation shall deposit the proceeds of the tax in a fund to be known as the historical society fund. The historical society fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for a historical society under this section.

~~(e)~~ **(d)** Subject to section 6 of this chapter, the governing body of the school corporation may annually appropriate the money in the fund to be paid in semiannual installments to a historical society having facilities in the county.

SECTION 799. IC 36-10-13-7, AS AMENDED BY P.L.2-2006, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. (a) This section applies to school corporations in a county containing a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000);

(2) more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(3) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

(4) more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000); or

(5) more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(b) To provide funding for an art association under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent ($0.005) on each one hundred dollars ($100) of assessed valuation in the school corporation. ~~The tax is not subject to the maximum permissible tuition support levy limitations imposed on the school corporation by IC 20-45-3.~~

(c) The school corporation shall deposit the proceeds of the tax imposed under subsection (b) in a fund to be known as the art association fund. The art association fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for an art association under this section. The governing body of the school corporation may annually appropriate the money in the fund to be paid in semiannual installments to an art association having facilities in a city that is described in subsection (a), subject to subsection (d).

(d) Before an art association may receive payments under this section, the association's governing board must adopt a resolution that entitles:

(1) the governing body of the school corporation to appoint the school corporation's superintendent and director of art instruction as visitors who may attend all meetings of the association's governing board;

(2) the governing body of the school corporation to nominate individuals for membership on the association's governing board, with at least two (2) of the nominees to be elected;

(3) the school corporation to use the association's facilities and equipment for educational purposes consistent with the association's purposes;

(4) the students and teachers of the school corporation to tour the association's museum and galleries free of charge;

(5) the school corporation to borrow materials from the association for temporary exhibit in the schools;

(6) the teachers of the school corporation to receive normal instruction in the fine and applied arts at half the regular rates charged by the association; and

(7) the school corporation to expect exhibits in the association's museum that will supplement the work of the students and teachers of the corporation.

A copy of the resolution, certified by the president and secretary of the association, must be filed in the office of the school corporation before payments may be received.

(e) A resolution filed under subsection (d) is not required to be renewed

annually. The resolution continues in effect until rescinded. An art association that complies with this section is entitled to continue to receive payments under this section as long as the art association complies with the resolution.

(f) If more than one (1) art association in a city that is described in subsection (a) qualifies to receive payments under this section, the governing body of the school corporation shall select the one (1) art association best qualified to perform the services described in subsection (d). A school corporation may select only one (1) art association to receive payments under this section.

SECTION 800. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: IC 6-1.1-3-11; IC 6-1.1-3-12; IC 6-1.1-3-13; IC 6-1.1-10-29; IC 6-1.1-10-29.3; IC 6-1.1-10-29.5; IC 6-1.1-10-30; IC 6-1.1-10-30.5; IC 6-1.1-10-31.1; IC 6-1.1-10-31.4; IC 6-1.1-10-31.5; IC 6-1.1-10-31.6; IC 6-1.1-10-31.7; IC 6-1.1-10-40; IC 6-1.1-10-43; IC 6-1.1-10.1; IC 6-1.1-20.7; IC 6-1.1-20.8; IC 6-1.1-40-3.

SECTION 801. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-8-1-23.4; IC 3-8-1-23.5; IC 3-11-2-12.8; IC 6-1.1-20-3.4; IC 6-1.1-29-1.5; IC 6-1.1-29-2.5; IC 6-1.1-29.5; P.L.224-2007, SECTION 139; P.L.224-2007, SECTION 140.

SECTION 802. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 6-1.1-4-13.8; IC 6-1.1-35.2-1; IC 6-1.1-35.5-9.

SECTION 803. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009] IC 6-1.1-21.2-1; IC 6-1.1-21.2-13; IC 6-1.1-21.2-14; IC 12-19-1.5.

SECTION 804. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 6-3.5-8; IC 12-7-2-117; IC 12-19-1-11; IC 12-19-1-12; IC 12-19-6; IC 31-9-2-44.3; IC 31-34-8-5; IC 31-34-23-2.

SECTION 805. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 31-26-3; IC 31-34-8-8; IC 31-34-8-9; IC 31-34-24; IC 31-37-24.

SECTION 806. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 5-22-4-9; IC 12-13-8; IC 12-13-9; IC 12-19-5; IC 12-19-7; IC 12-19-7.5; IC 16-35-3; IC 16-35-4; IC 16-35-5; IC 31-19-26; IC 31-25-2-17; IC 31-33-4-4; IC 31-33-21.

SECTION 807. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 20-24-7-12; IC 20-43-1-5; IC 20-43-1-16; IC 20-43-3-5; IC 20-43-3-6; IC 20-43-6-2; IC 20-43-6-4; IC 20-43-6-6; IC 20-45-1-3; IC 20-45-1-4; IC 20-45-1-7; IC 20-45-1-8; IC 20-45-1-9; IC 20-45-1-10; IC 20-45-1-11; IC 20-45-1-13; IC 20-45-1-15;

IC 20-45-1-16; IC 20-45-1-17; IC 20-45-1-18; IC 20-45-1-20; IC 20-45-1-21; IC 20-45-1-22; IC 20-45-2; IC 20-45-3.

SECTION 808. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 4-24-7-2; IC 11-10-2-3; IC 12-13-7-17.

SECTION 809. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 20-40-4-2; IC 20-46-2.

SECTION 810. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 6-1.1-19-13; IC 6-1.1-20.6-9; IC 6-1.1-21.7; IC 20-45-1-7; IC 20-45-4; IC 20-45-5; IC 20-45-6; IC 20-46-1-2; IC 20-46-3-8; IC 20-46-4-9.

SECTION 811. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 6-1.1-20.6-1; IC 6-1.1-20.6-5; IC 6-1.1-20.6-6; IC 6-1.1-20.6-6.5.

SECTION 812. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 36-7-14-39.1; IC 36-7-15.1-26.1; IC 36-7-15.1-54.

SECTION 813. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 4-35-8-2; 4-35-8-4; IC 6-1.1-20.9; IC 6-1.1-21; IC 8-22-3.5-10; IC 8-22-3.5-12; IC 36-7-14-39.5; IC 36-7-15.1-26.5; IC 36-7-15.1-26.7; IC 36-7-15.1-26.9; IC 36-7-15.1-56; IC 36-7-30-27; IC 36-7-30.5-32; IC 36-7-32-18.

SECTION 814. IC 5-10.3-11-4.5 IS REPEALED [EFFECTIVE JANUARY 1, 2009].

SECTION 815. IC 36-12-14 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 816. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: P.L.38-2001, SECTION 4; P.L.1-2002, SECTION 164.

SECTION 817. IC 6-3.1-21-10 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 818. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 3-10-2-14; IC 6-1.1-1-5.5; IC 6-1.1-1-22; IC 6-1.1-1-22.7; IC 36-6-5-2.

SECTION 819. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 12-16-2.5-2; IC 12-16-4.5-1; IC 12-16-4.5-4; IC 12-16-5.5-1; IC 12-16-7.5-9; IC 12-16-7.5-10; IC 12-16-14-1; IC 12-16-14-2; IC 12-16-14-3; IC 12-16-14-4; IC 12-16-14-5; IC 12-16-15.5.

SECTION 820. [EFFECTIVE JANUARY 1, 2009] **(a) A county may not impose a property tax levy under IC 12-16-14-1, IC 12-16-14-2, and IC 12-16-14-3 for an assessment date after January 15, 2008.**

(b) Notwithstanding the abolishment by this act of each county's county hospital care for the indigent fund, a county auditor shall separately account for and transfer:

(1) the unencumbered balance on December 31, 2008, of the county's account in the county general fund for the county hospital care for the indigent fund; and

(2) any delinquent property tax payments and other amounts that would have been deposited after December 31, 2008, in the county's account in the county general fund for the county hospital care for the indigent fund if IC 12-16-14-1, IC 12-16-14-2, and IC 12-16-14-3 had not been repealed by this act;

to the state after December 31, 2008, in the manner provided in IC 12-16-14-6(b) (as effective December 31, 2008). The auditor of state shall deposit an amount transferred under this subsection in the state hospital care for the indigent fund.

(c) In addition to other appropriations made to the family and children's social services administration, there is appropriated for the state fiscal year beginning July 1, 2008, and ending June 30, 2009, ten million dollars ($10,000,000) to the family and social services administration from the state general fund for the purpose of making the first installment of the transfer required by IC 12-16-17-1, as added by this act, for calendar year 2009.

(d) Notwithstanding IC 4-12-1-12(e) and IC 4-13-2-23, if the amount available in the state hospital care for the indigent fund for the state fiscal year beginning July 1, 2008, and ending June 30, 2009, is insufficient to expend the amount appropriated to the family and social services administration from the fund by P.L.234-2007, SECTION 8 (including any augmentation permitted under P.L.234-2007, SECTION 8), the budget agency shall transfer an amount at least equal to the deficiency from the unrestricted balance of the state general fund to the state hospital care for the indigent fund for the purposes of the appropriation. The amount transferred does not reduce the appropriation made to any agency or for any other purpose. The transfers under this subsection shall be made on the schedule necessary to carry out the purposes of the appropriation.

SECTION 821. [EFFECTIVE JANUARY 1, 2009] **(a) A county may not impose a property tax levy after December 31, 2008, for the county general fund to the extent that the levy is for the reimbursement of the department of correction under IC 11-10-2-3 (before its repeal by this**

act) or a related provision for the costs of keeping delinquent offenders.

(b) The obligation to pay the costs of keeping delinquent offenders (as defined in IC 11-8-1-9), to the extent that the costs are for services delivered after December 31, 2008, is transferred from the counties to the state. The obligation transferred includes the costs of using after December 31, 2008, an institution or a facility in Indiana for providing educational services that, before January 1, 2009, were chargeable to a county family and children's fund, a county office, or a county under IC 20-26-11-12, IC 20-26-11-13, or IC 20-33-2-29.

(c) The following definitions apply throughout this subsection:

(1) "Account" means an obligation of a county under IC 11-10-2-3 (before its repeal by this act) or another law to reimburse the state, including the department of correction, for the cost of keeping a delinquent offender before January 1, 2009.

(2) "Delinquent account" means an account that has not been paid to the state before six (6) months after the account is forwarded under this SECTION or IC 4-24-7-4 (before its amendment by this act).

All accounts accruing before January 1, 2009, and not previously forwarded to a county auditor, and any reconciliations for any period before January 1, 2009, shall be forwarded to the county auditor before March 16, 2009. Upon receipt of an account, the county auditor shall draw a warrant on the treasurer of the county for the payment of the account, which shall be paid from the funds of the county that were appropriated for the payment. The county council of each county shall appropriate sufficient funds to pay these accounts.

(d) A county and the department of correction may enter into agreements to resolve any issues arising under this act concerning payments to vendors, payments to the county, payments to the state (including payments due for commitments before January 1, 2009), collection of amounts due to a county or the state from a parent, guardian, or custodian, and other matters affected by this act. Notwithstanding this act, the agreement, if approved by the governor and the county fiscal body, governs the responsibilities of the state and the county.

(e) This SECTION applies notwithstanding any other law.

SECTION 822. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **(a) A county may not impose a property tax levy under IC 12-13-8 for an assessment date after January 15, 2008.**

(b) Notwithstanding the abolishment by this act of each county's county medical assistance to wards fund, a county auditor shall separately account for and transfer:

(1) the unencumbered balance on December 31, 2008, of the county's county medical assistance to wards fund; and

(2) any delinquent property tax payments and other amounts that would have been deposited after December 31, 2008, in the county's county medical assistance to wards fund if IC 12-13-8 had not been repealed by this act;

to the state after December 31, 2008, in the manner provided in IC 12-13-9-1 (before its repeal by this act). The auditor of state shall deposit an amount transferred under this subsection in the state general fund for use by the office of the secretary of family and social services to defray the expenses and obligations incurred by the office of the secretary of family and social services for medical assistance to wards and associated administrative costs.

(c) Any unencumbered balance in the state medical assistance to wards fund on December 31, 2008, shall be transferred to the state general fund.

(d) In addition to the amount appropriated to the family and social services administration in P.L.234-2007, there is appropriated twelve million one hundred ninety thousand three hundred fifty-eight dollars ($12, 190,358) to the family and social services administration from the state general fund to defray the expenses and obligations incurred by the family and social services administration for medical assistance to wards and associated administrative costs, beginning July 1, 2008, and ending June 30, 2009. Augmentation allowed (as defined in P.L.234-2007, SECTION 1).

SECTION 823. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) A county may not impose a property tax levy under IC 12-19-7 for an assessment date after January 15, 2008.**

(b) Notwithstanding the abolishment by this act of each county's family and children's fund, a county auditor shall separately account for:

(1) the unencumbered balance on December 31, 2008, of the county's family and children's fund; and

(2) any delinquent property tax payments and other amounts that would have been deposited after December 31, 2008, in the county's family and children's fund if IC 12-19-7 had not been repealed by this act.

Money retained under this subsection may be used only to pay the county's obligations described in subsection (c) or (d). After all the obligations described in subsection (c) or (d) are satisfied, any remaining balance shall be deposited in the county's levy excess fund under IC 6-1.1-18.5-17 and used for the purposes of the fund.

(c) Notwithstanding the repeal of IC 12-19-7 by this act, a county's obligation to pay for the following services delivered before January 1, 2009, is not terminated:

(1) Child services (as defined in IC 12-19-7-1 (as effective before its repeal)).

(2) Other services described in IC 31-40-1-2 (as effective December 31, 2008) that would have been payable from the county's family and children's fund if IC 12-19-7 had not been repealed by this act.

(d) A county's obligation to levy property taxes to pay principal, interest, and other costs of any:

(1) loans that were entered into; or

(2) bonds that were issued;

under IC 12-19-5 or IC 12-19-7 (before their repeal by this act) to meet obligations described in subsection (c) is transferred to the county's debt service fund. A county may impose a property tax levy for an assessment date after January 15, 2008, for the county's debt service fund that is sufficient to pay the principal, interest, and other costs of loans and bond obligations transferred under this subsection.

(e) A county may impose a property tax levy in 2009 for the county debt service fund to pay any shortfall in revenue from the county's family and children's fund (before its repeal) needed to pay the obligations described in subsection (c) after the application of the amounts retained under subsection (b) and the proceeds of bonds and loans described in subsection (d).

(f) Notwithstanding the repeal of IC 12-19-7 and the amendment of IC 31-40 by this act, the obligation of a parent or guardian of the estate of a child to reimburse a county and to pay fees for services described in subsection (c) is not terminated. A juvenile court or county may enforce the obligation by any legal or equitable remedy permitted by law, including any procedure under IC 31-40 (as effective December 31, 2008).

(g) In addition to the amount appropriated to the department of child services in P.L.234-2007, there is appropriated two hundred thirty-nine million nine hundred eighty thousand five hundred two

dollars ($239,980,502) to the department of child services from the state general fund to pay for:

(1) child services (as defined in IC 31-9-2-17.8 (as added by this act)) delivered after December 31, 2008; and

(2) other services that are provided by the department of child services to or for the benefit of children and that are delivered after December 31, 2008;

beginning July 1, 2008, and ending June 30, 2009. Augmentation allowed (as defined in P.L.234-2007, SECTION 1). If a county paid a cost that is an obligation of the department of child services, the department of child services may reimburse the county from the amount appropriated by this subsection. The county shall account for and use the reimbursement in the manner provided under subsection (b).

(h) The following are also appropriated to the department of child services for the purposes described in subsection (g), beginning July 1, 2008, and ending June 30, 2009:

(1) All grants received from the federal government under Title IV-B of the Social Security Act (42 U.S.C. 620 et seq.), the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106 et seq.), or any other federal or state government program that:

(A) is intended to provide funding for services and programs administered by the department; and

(B) is not required by applicable law or the terms of the grant to be received and administered through a separate fund.

(2) All funds received by the department under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.) as payment or reimbursement for eligible expenses for child services.

(3) All reimbursements or support payments collected or received by the department for application to the cost of services provided to or for the benefit of children in need of services or delinquent children.

(i) Notwithstanding any other provision, payment for child services (as defined in IC 31-9-2-17.8 (as added by this act)) shall be made not later than sixty (60) days after the date the department of child services receives the service provider's invoice together with a properly prepared claim voucher and documentation.

SECTION 824. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) A county may not impose a property tax levy under IC 12-19-7.5 for an assessment date after January 15, 2008.**

(b) Notwithstanding the abolishment by this act of each county's children's psychiatric residential treatment services fund, a county auditor shall separately account for:

(1) the unencumbered balance on December 31, 2008, of the county's children's psychiatric residential treatment services fund; and

(2) any delinquent property tax payments and other amounts that would have been deposited after December 31, 2008, in the county's children's psychiatric residential treatment services fund if IC 12-19-7.5 had not been repealed by this act.

Money retained under this subsection may be used only to pay the county's obligations described in subsection (c) or (d). After all the obligations described in subsection (c) or (d) are satisfied, any remaining balance shall be deposited in the county's levy excess fund under IC 6-1.1-18.5-17 and used for the purposes of the fund.

(c) Notwithstanding the repeal of IC 12-19-7 by this act, a county's obligation to pay for the following services delivered before January 1, 2009, is not terminated:

(1) Children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1 (as effective before its repeal)).

(2) Other services described in IC 31-40-1-2 (as effective December 31, 2008) that would have been payable from the county's children's psychiatric residential treatment services fund if IC 12-19-7.5 had not been repealed by this act.

(d) A county's obligation to levy property taxes to pay principal, interest, and other costs of any:

(1) loans that were entered into; or

(2) bonds that were issued;

under IC 12-19-5 or IC 12-19-7.5 (before their repeal by this act) to meet obligations described in subsection (c) is transferred to the county's debt service fund. A county may impose a property tax levy for an assessment date after January 15, 2008, for the county's debt service fund that is sufficient to pay the principal, interest, and other costs of loans and bond obligations transferred under this subsection.

(e) A county may impose a property tax levy in 2009 for the county debt service fund to pay any shortfall in revenue from the county's children's psychiatric residential treatment services fund (before its repeal) needed to pay the obligations described in subsection (c) after the application of the amounts retained under subsection (b) and the proceeds of bonds and loans described in subsection (d).

(f) Notwithstanding the repeal of IC 12-19-7.5 and the amendment of IC 31-40 by this act, the obligation of a parent or guardian of the estate of a child to reimburse a county and to pay fees for services described in subsection (c) is not terminated. A juvenile court or county may enforce the obligation by any legal or equitable remedy permitted by law, including any procedure under IC 31-40 (as effective December 31, 2008).

(g) In addition to the amount appropriated to the family and social services administration in P.L.234-2007, there is appropriated to the family and social services administration, beginning July 1, 2008, and ending June 30, 2009, ten million two hundred eleven thousand nine hundred twenty dollars ($10,211,920) from the state general fund to pay the costs for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1 (repealed)) delivered after December 31, 2008, beginning July 1, 2008, and ending June 30, 2009. Augmentation allowed (as defined in P.L.234-2007, SECTION 1). Costs shall be paid in the manner determined by the office of the secretary of family and social services. If a county paid a cost that is an obligation of the office of the secretary of family and social services, the office may reimburse the county from the amount appropriated under this subsection. The county shall account for and use the reimbursement in the manner provided under subsection (b).

SECTION 825. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) Money in a county family and children trust clearance fund established under IC 12-19-1-16 (as effective December 31, 2008) on December 31, 2008, that is required to be administered in a child trust clearance account established by IC 31-25-2-20.2, as added by this act, shall be transferred to the child trust clearance account.**

(b) Money in a fund established under IC 12-19-1-15 (as effective December 31, 2008) or IC 12-19-1-16 (as effective December 31, 2008) on December 31, 2008, that is not transferred under subsection (a) shall be transferred to the appropriate account in the family resources trust clearance fund established by IC 12-19-1-16, as amended by this act.

(c) A county and any combination of:

(1) the office of the secretary of family and social services;

(2) the division of family resources;

(3) the department of child services; and

(4) the state department of health;

may enter into agreements to resolve any issues arising under this act

concerning payments to vendors, payments to the county, payments to the state, collection of amounts due to a county or the state from a parent, guardian, or custodian, and other matters affected by this act. Notwithstanding any other law, the agreement, if approved by the governor and the county fiscal body, governs the responsibilities of the state and the county.

(d) A reference in a law or other document to:

(1) child services (as defined in IC 12-19-7-1 (repealed)) shall be treated after December 31, 2008, as a reference to child services (as defined in IC 31-9-2-17.8, as added by this act); and

(2) a county office of family and children shall be treated after the effective date of this SECTION as a reference to:

(A) the division of family resources and a local office (as defined in IC 12-7-2-124.8, as added by this act) for activities subject to IC 12; and

(B) the department of child services and a local office (as defined in IC 31-9-2-76.6, as added by this act) for activities subject to IC 31.

SECTION 826. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **(a) A county may not impose a property tax levy under IC 16-35-3 for an assessment date after January 15, 2008.**

(b) Notwithstanding the abolishment by this act of each county's children with special health care needs county fund, a county auditor shall separately account for and transfer:

(1) the unencumbered balance on December 31, 2008, of the county's children with special health care needs county fund; and

(2) any delinquent property tax payments and other amounts that would have been deposited after December 31, 2008, in the county's children with special health care needs county fund if IC 16-35-3 had not been repealed by this act;

to the state after December 31, 2008, in the manner provided in IC 16-35-4-2 (before its repeal by this act). The auditor of state shall deposit an amount transferred under this subsection in the state general fund for use by the state department of health for expenses and obligations incurred by the state department of health for services to children with special health care needs.

(c) Any unencumbered balance in the children with special health care needs state fund on December 31, 2008, shall be transferred to the state general fund.

(d) Any unencumbered balance in the children with special health

care needs federal fund on December 31, 2008, shall be transferred to the appropriate account determined by the budget agency. The money must be accounted for and used in a manner consistent with the terms of the federal grant that provided the money.

(e) In addition to the amount appropriated to the state department of health in P.L.234-2007, including the amount appropriated to the state department of health, there is appropriated, beginning July 1, 2008, and ending June 30, 2009, five million two hundred forty-one thousand seven hundred ninety-eight dollars ($5,241,798) from the state general fund for expenses and obligations incurred by the state department of health for services to children with special health care needs. Augmentation allowed (as defined in P.L.234-2007, SECTION 1).

SECTION 827. [EFFECTIVE UPON PASSAGE] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall study alternative methods for distribution within a county of taxes imposed under IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7.**

(b) Before November 1, 2008, the commission on state tax and financing policy shall report findings and make recommendations concerning the study topic described in subsection (a) in a final report to the legislative council in an electronic format under IC 5-14-6.

SECTION 828. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **(a) This SECTION applies only to an individual who in 2008 paid property taxes that:**

(1) were imposed on the individual's principal place of residence for the March 1, 2006, assessment date or the January 15, 2007, assessment date;

(2) are due after December 31, 2007; and

(3) are paid on or before the due date for the property taxes.

(b) As used in this SECTION, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5.

(c) An individual described in subsection (a) is entitled to a deduction from adjusted gross income for a taxable year beginning after December 31, 2007, and before January 1, 2009, in an amount equal to the amount determined in the following STEPS:

STEP ONE: Determine the lesser of:

(1) two thousand five hundred dollars ($2,500); or

(2) the total amount of property taxes imposed on the individual's principal place of residence for the March 1, 2006, assessment date or the January 15, 2007, assessment

date and paid in 2007 or 2008.

STEP TWO: Determine the greater of zero (0) or the result of:

(1) the STEP ONE result; minus

(2) the total amount of property taxes that:

(A) were imposed on the individual's principal place of residence for the March 1, 2006, assessment date or the January 15, 2007, assessment date;

(B) were paid in 2007; and

(C) were deducted from adjusted gross income under IC 6-3-1-3.5(a)(17) by the individual on the individual's state income tax return for a taxable year beginning before January 1, 2008.

(d) The deduction under this SECTION is in addition to any deduction that an individual is otherwise entitled to claim under IC 6-3-1-3.5(a)(17). However, an individual may not deduct under IC 6-3-1-3.5(a)(17) any property taxes deducted under this SECTION.

SECTION 829. [EFFECTIVE UPON PASSAGE] **(a) Each elected township assessor and township trustee-assessor whose duties relating to the assessment of tangible property are assumed under this act by the county assessor shall organize the records of the township assessor's or township trustee-assessor's office relating to the assessment of tangible property in a manner prescribed by the department of local government finance and transfer the records to the county assessor as directed by the department. The department shall, before July 1, 2008, determine a procedure and schedule for the transfer of the records. A township assessor or township trustee-assessor shall complete the transfer of records and operations to the county assessor before the date of transfer of duties described in this subsection.**

(b) The assessors shall assist each other and coordinate their efforts to:

(1) ensure an orderly transfer of all township assessor and township trustee-assessor records to the county assessor; and

(2) provide for an uninterrupted and professional transition of the property assessment functions from the township assessor or township trustee-assessor to the county assessor consistent with the directions of the department of local government finance and this act.

(c) This SECTION expires January 1, 2013.

SECTION 830. [EFFECTIVE JULY 1, 2008] **(a) This act does not**

affect any assessment, assessment appeal, or other official action of a township assessor or township trustee-assessor made before the transfer to the county assessor of duties relating to the assessment of tangible property. Any assessment, assessment appeal, or other official action made by a township assessor or township trustee-assessor within the scope of the assessor's official duties under IC 6-1.1 or IC 36-6-5, before their amendment by this act, before transfer to the county assessor of duties relating to the assessment of tangible property shall be considered as having been made by the county assessor.

(b) This act does not affect any pending action against, or the rights of any party that may possess a legal claim against, a township assessor or township trustee-assessor that is not described in subsection (a).

(c) This SECTION expires January 1, 2013.

SECTION 831. [EFFECTIVE JULY 1, 2008] **(a) The department of local government finance shall adjust the maximum permissible ad valorem property tax levy of a county and a township in the county to reflect the transfer of records and operations from the township assessor or township trustee-assessor to the county assessor under this act. The adjusted maximum permissible ad valorem tax levies determined under this SECTION apply to property taxes first due and payable in the calendar year following the calendar year in which the transfer of records and operations was completed.**

(b) This SECTION expires January 1, 2013.

SECTION 832. [EFFECTIVE JULY 1, 2008] **(a) This SECTION applies to an elected township assessor:**

(1) who before July 1, 2008, is:

(A) elected to; or

(B) selected to fill a vacancy in;

the office of elected township assessor; and

(2) for whom the county assessor performs the assessment duties prescribed by IC 6-1.1:

(A) after June 30, 2008, under IC 36-6-5-1(h), as added by this act; or

(B) after December 31, 2008, as the result of a referendum under IC 36-2-15, as amended by this act.

(b) Notwithstanding any other provision of this act, an elected township assessor referred to in subsection (a) is entitled to remain in office until the end of the term to which the individual was elected or

for which the individual was selected to fill a vacancy. The sole duty of the individual is to assist the county assessor in the transfer of records and operations from the township assessor to the county assessor under this act.

(c) If the office of township assessor is subject to the election on November 4, 2008, the term of office of the incumbent township assessor as of that date ends on December 31, 2008.

(d) This SECTION expires January 1, 2013.

SECTION 833. [EFFECTIVE UPON PASSAGE] **(a) IC 3-13-11 does not apply to a vacancy in the office of elected township assessor that occurs after the effective date of this SECTION and before July 1, 2008, in a township in which the number of parcels of real property on January 1, 2008, is less than fifteen thousand (15,000).**

(b) This SECTION expires July 1, 2008.

SECTION 834. [EFFECTIVE UPON PASSAGE] **(a) The following are transferred to the county assessor:**

(1) On July 1, 2008:

(A) employment positions as of June 30, 2008, of each elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by this act, including:

(i) the employment position of the elected township assessor; and

(ii) the employment positions of all employees of the elected township assessor;

(B) real and personal property of:

(i) elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by this act; and

(ii) township trustee-assessors in the county;

used solely to carry out property assessment duties;

(C) obligations outstanding on June 30, 2008, of:

(i) elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by this act; and

(ii) township trustee-assessors in the county;

relating to the assessment of tangible property; and

(D) funds of:

(i) elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by this act; and

(ii) township trustee-assessors in the county;

on hand for the purpose of carrying out property assessment duties in the amount determined by the county auditor.

(2) On January 1, 2009:

(A) employment positions as of December 31, 2008, of each elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under IC 36-2-15, as amended by this act, including:

(i) the employment position of the elected township assessor; and

(ii) the employment positions of all employees of the elected township assessor;

(B) real and personal property of elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under IC 36-2-15, as amended by this act, used solely to carry out property assessment duties;

(C) obligations outstanding on December 31, 2008, of elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under IC 36-2-15, as amended by this act, relating to the assessment of tangible property; and

(D) funds of elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under IC 36-2-15, as amended by this act, on hand for the purpose of carrying out property assessment duties in the amount determined by the county auditor.

(b) Before July 1, 2008, the county assessor shall interview, or give the opportunity to interview to, each individual who:

(1) is an employee of:

(A) an elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by this

act; or

(B) a trustee-assessor in the county;

as of the effective date of this SECTION; and

(2) applies before June 1, 2008, for an employment position referred to in subsection (a)(1)(A).

(c) Before December 31, 2008, the county assessor shall interview, or give the opportunity to interview to, each individual who:

(1) is an employee of an elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under IC 36-2-15, as amended by this act, as of the effective date of this SECTION; and

(2) applies before December 1, 2008, for an employment position referred to in subsection (a)(2)(A).

(d) A township served on June 30, 2008, by a township assessor whose duties relating to the assessment of tangible property are transferred to the county assessor under this act shall transfer to the county assessor all revenue received after the date of the transfer that is received by the township for the purpose of carrying out property assessment duties in the amount determined by the county auditor.

SECTION 835. [EFFECTIVE UPON PASSAGE] **(a) Before April 15, 2008, each county auditor shall certify to the county assessor, the executive (as defined in IC 36-1-2-5) of the county, the fiscal body (as defined in IC 36-1-2-6) of the county, and the county election board the name of each township in the county in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).**

(b) This SECTION expires July 1, 2008.

SECTION 836. [EFFECTIVE UPON PASSAGE] **(a) The commission on state tax and financing policy established under IC 2-5-3 shall:**

(1) study whether it is reasonable and appropriate to require all counties to use a single state designed software system to provide a uniform and common property tax management system;

(2) if the commission's findings in the study under subdivision (1) are in the affirmative, study whether it is reasonable and appropriate for the state to fund any part of the system referred to in subdivision (1); and

(3) report the commission's findings in writing to:

(A) the budget committee; and

(B) the legislative council in an electronic format under

IC 5-14-6.

(b) This SECTION expires July 1, 2009.

SECTION 837. [EFFECTIVE UPON PASSAGE] **(a) Before August 1, 2008, the department of local government finance shall report to the commission on state tax and financing policy established under IC 2-5-3 regarding:**

(1) the possibility of eliminating the existing method of assessing and valuing property for the purpose of property taxation; and

(2) the use of alternative methods of valuing property for the purpose of property taxation.

(b) The department of local government finance shall report to the commission on state tax and financing policy concerning at least three (3) options related to alternative methods of valuing property for the purpose of property taxation.

(c) The commission on state tax and financing policy shall study the issues described in subsection (a) and report the commission's findings and recommendations (in an electronic format under IC 5-14-6) to the legislative council before November 1, 2008.

(d) This SECTION expires July 1, 2009.

SECTION 838. [EFFECTIVE JULY 1, 2008] **(a) There is appropriated from the state general fund to the pension relief fund for the period beginning July 1, 2008, and ending June 30, 2009, forty-eight million six hundred eleven thousand dollars ($48,611,000) for the payment of pension, disability, and survivor benefits.**

(b) This SECTION expires July 1, 2009.

SECTION 839. [EFFECTIVE UPON PASSAGE] **(a) The pension management oversight commission established under IC 2-5-12 shall:**

(1) study issues related to the payment of benefits under the 1925 police pension fund (IC 36-8-6), the 1937 firefighters' pension fund (IC 36-8-7), and the 1953 police pension fund (IC 36-8-7.5) by the state of Indiana; and

(2) report the commission's findings in writing to:

(A) the budget committee; and

(B) the legislative council in an electronic format under IC 5-14-6.

(b) This SECTION expires July 1, 2009.

SECTION 840. [EFFECTIVE JULY 1, 2008] **For property taxes first due and payable after December 31, 2008, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of any civil taxing unit and special service**

district by the amount of the payment to be made in 2009 by the state of Indiana under IC 5-10.3-11, as amended by this act, for benefits to members (and survivors and beneficiaries of members) of the 1925 police pension fund, the 1937 firefighters' fund, or the 1953 police pension fund.

SECTION 841. [EFFECTIVE JULY 1, 2008] **IC 1-1-5-1 applies to the expiration of IC 14-23-3-3 and IC 15-13-9, both as amended by this act. Liability and penalties for delinquent tax payments for a property tax imposed under IC 14-23-3-3 or IC 15-13-9 before January 1, 2009, are not extinguished as a result of the expiration of these provisions under this act. Delinquent property taxes collected after December 31, 2008, from a property tax imposed under IC 14-23-3-3 or IC 15-13-9 before January 1, 2009, shall be deposited and used after December 31, 2008, as provided in IC 14-23-3-3 or IC 15-13-9, both as effective December 30, 2008.**

SECTION 842. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) The assessed value for assessment dates after 2008 and before 2011 of agricultural land strip mined on or before December 31, 1977, is determined using the methodology stated in the section entitled Valuing Strip Mined Agricultural Land in Book 1, Chapter 2, of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2008), except that the department shall adjust the methodology to use a productivity factor of .75 instead of a productivity factor of .50.

(c) The assessed value for assessment dates after 2008 and before 2011 of agricultural land:

(1) strip mined after December 31, 1977; and

(2) for which:

(A) a bond; or

(B) a bond equivalent;

under IC 14-34-6 has been finally released;

is determined using the methodology reflected in Book 1, Chapter 2, of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2008) for the assessment of agricultural land that is not classified as strip mined agricultural land.

(d) This SECTION expires January 1, 2012.

SECTION 843. [EFFECTIVE JULY 1, 2008] **IC 6-1.1-12-37.5, as added by this act, applies to property taxes first due and payable after**

December 31, 2008.

SECTION 844. [EFFECTIVE UPON PASSAGE] **IC 6-3.5-1.1-26(j), as added by this act, applies to property taxes first due and payable after December 31, 2007.**

SECTION 845. [EFFECTIVE APRIL 1, 2008] **(a) IC 6-2.5-6-10, as amended by this act, applies to reporting periods beginning after June 30, 2008.**

(b) For purposes of:

(1) IC 6-2.5-2-2, as amended by this act;

(2) IC 6-2.5-6-7, as amended by this act;

(3) IC 6-2.5-6-8, as amended by this act;

(4) IC 6-2.5-6-10, as amended by this act;

(5) IC 6-2.5-7-3, as amended by this act; and

(6) IC 6-2.5-7-5, as amended by this act;

all transactions, except the furnishing of public utility, telephone or related services, cable television or similar video and related services, cable radio, satellite television, or satellite radio services and related commodities by retail merchants described in IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11, shall be considered as having occurred after March 31, 2008, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before April 1, 2008, to the extent that the agreement of the parties to the transaction was entered into before April 1, 2008, and payment for the property or services furnished in the transaction is made before April 1, 2008, notwithstanding the delivery of the property or services after March 31, 2008.

(c) With respect to a transaction constituting the furnishing of public utility, telephone or related services, cable television or similar video and related services, cable radio, satellite television, or satellite radio services and related commodities, only transactions for which the charges are collected upon original statements and billings dated after April 30, 2008, shall be considered as having occurred after March 31, 2008.

SECTION 846. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-3-2-6, as amended by this act, applies only to taxable years beginning after December 31, 2007.**

SECTION 847. [EFFECTIVE JANUARY 1, 2009] **(a) Notwithstanding the repeal of IC 6-1.1-20.9 by this act, a provision in**

IC 6-3.5 that refers to a credit as an additional homestead credit, an increased homestead credit, or a credit for property that is eligible for a homestead credit under IC 6-1.1-20.9 (repealed by this act), shall be treated after December 31, 2008, as continuing to permit a grant of a homestead credit against the property tax liability imposed on property that is eligible for a standard deduction under IC 6-1.1-12-37. The credit shall be calculated in the same manner as the credits were calculated before January 1, 2009.

(b) Notwithstanding the repeal of IC 6-1.1-21 by this act, a provision in IC 6-3.5 that refers to a credit as an additional property tax replacement credit or an increased property tax replacement credit shall be treated after December 31, 2008, as continuing to permit the grant of a property tax replacement credit against property tax liability. The credit shall be calculated in the same manner as the credits were calculated before January 1, 2009.

SECTION 848. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.**

(b) An owner entitled to a homestead credit under IC 6-1.1-20.9 for property taxes assessed for the March 1, 2007, and January 15, 2008, assessment dates is entitled to an additional homestead credit under this SECTION against the property tax liability (as described in IC 6-1.1-21-5) imposed against the taxpayer's homestead for the March 1, 2007, and January 15, 2008, assessment dates.

(c) Subject to subsection (j), the amount of the credit to which an owner is entitled under this SECTION equals the product of:

(1) the percentage prescribed in subsection (d)(3); multiplied by

(2) the amount of the individual's property tax liability (as described in IC 6-1.1-21-5) that is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of all deductions from assessed valuation that the owner claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property and the property tax replacement credit under IC 6-1.1-21.

(d) The county auditor of each county shall determine:

(1) the amount of the county's additional homestead credit allotment determined under subsection (e);

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under

subdivision (1); and

(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(e) There is granted under this SECTION a total of six hundred twenty million dollars ($620,000,000) of additional homestead credits. Subject to subsection (j), the additional homestead credits shall be distributed to each county as prescribed in subsection (f). Before distribution, the department of local government finance shall certify each county's additional homestead credit allotment to the department of state revenue and to each county auditor.

(f) Each county's certified additional homestead credit allotment, which shall be calculated by the budget agency, shall be determined under the following STEPS:

STEP ONE: For each county, determine the total of state homestead credits granted in the county for the most recent calendar year.

STEP TWO: Determine the sum of the amounts determined under STEP ONE.

STEP THREE: Divide the amount determined in STEP ONE by the amount determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by six hundred twenty million dollars ($620,000,000).

(g) Each county's additional homestead credit allotment authorized in this SECTION shall be distributed to that county not more than two (2) weeks after the county mails a property tax bill for which the additional homestead credit under this SECTION is granted.

(h) In addition to any other appropriation made to the property tax replacement fund board under P.L.234-2007, there is appropriated to the property tax replacement fund board six hundred twenty million dollars ($620,000,000) from the state general fund to make distributions for the additional homestead credits provided by this SECTION for property taxes assessed for the March 1, 2007, and January 15, 2008, assessment dates. The appropriation in this subsection is not subject to the limit in P.L.234-2007 on distributions from the property tax replacement fund. Money distributed under this subsection shall be treated as property taxes for all purposes.

(i) The department of local government finance, the department of state revenue, the budget agency, and the property tax replacement fund board shall take the actions necessary to carry out this

SECTION. The department of local government finance and the budget agency shall make the certifications required under this SECTION based on the best information available at the time the certification is made.

(j) This subsection applies to a county that before January 1, 2008, adopted an additional county adjusted gross income tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-1.1-26 or an additional county option income tax rate under IC 6-3.5-6-30 or IC 6-3.5-6-32. The county auditor, with the approval of the county fiscal body may petition the department of local government finance in writing to permit a portion of the additional homestead credit allotment authorized for distribution under this SECTION to be used to increase the state funded homestead credit granted by this act for property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates or to increase both the state funded homestead credit granted by this act for property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates, and the state funded homestead credit granted by this act for property taxes imposed for the March 1, 2009, and January 15, 2010, assessment dates. The petition must be filed with the department of local government finance not later than twenty (20) days after the county auditor receives notice under this SECTION of the county's additional homestead credit allotment. The petition must indicate the amount or the percentage of the additional homestead credit allotment that the county chooses to apply to 2009 property taxes or the amounts or the percentages of the additional homestead credit allotment that the county chooses to apply to both 2009 and 2010 property taxes. The department of local government finance may take action on a petition with or without a hearing. The department of local government shall make a final determination of a petition not later than twenty (20) days after receiving the petition. If the department of local government finance approves the petition:

(1) the department of local government finance shall certify to the department of state revenue and the county auditor the amount of the county's additional homestead credit allotment to be applied to:

(A) property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates; or

(B) both property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates and property taxes imposed for the March 1, 2009, and January 15, 2010,

assessment dates;

as applicable;

(2) the additional homestead credits granted under this SECTION for property taxes imposed for the March 1, 2007, and January 15, 2008, assessment dates are reduced by the percentage necessary to reflect the amount of the additional homestead credit allotment under this SECTION that is to be applied to:

(A) property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates; or

(B) both property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates and property taxes imposed for the March 1, 2009, and January 15, 2010, assessment dates;

as applicable;

(3) the additional homestead credits granted by this act for:

(A) property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates; or

(B) both property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates and property taxes imposed for the March 1, 2009, and January 15, 2010, assessment dates;

as applicable are increased by the percentage necessary to reflect the amount of the additional homestead credit allotment under this SECTION that is to be applied to property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates or to both property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates and property taxes imposed for the March 1, 2009, and January 15, 2010, assessment dates (as applicable);

(4) the property tax replacement fund board shall withhold from the distribution made to the county under subsection (g), the amount of the additional homestead credit allotment that is to be applied to property taxes imposed for:

(A) the March 1, 2008, and January 15, 2009, assessment dates and distribute the amount to the county by December 31, 2008; or

(B) the March 1, 2008, and January 15, 2009, assessment dates and the March 1, 2009, and January 15, 2010, assessment dates, and distribute the proper amounts to the

county by December 31, 2008, and December 31, 2009. A county auditor shall distribute an amount received under this subsection for property taxes imposed for the March 1, 2008, and January 15, 2009, assessment dates, along with interest earned on the amount, among the taxing units in the county in proportion to the property tax revenue lost to each taxing unit from the increase in the additional homestead credit percentage made under subdivision (3).

SECTION 849. [EFFECTIVE JULY 1, 2008] **(a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9 (before its repeal), and IC 6-1.1-21 (before its repeal) apply throughout this SECTION.**

(b) A taxpayer that is entitled to a standard deduction under IC 6-1.1-12-37 for property taxes assessed for the March 1, 2008, and January 15, 2009, assessment dates is entitled to a homestead credit under this SECTION against the property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) imposed against the taxpayer's homestead for the March 1, 2008, and January 15, 2009, assessment dates.

(c) The amount of the credit to which an owner is entitled under this SECTION equals the product of:

(1) the percentage prescribed in subsection (d)(3); multiplied by

(2) the amount of the individual's property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) that is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of all deductions from assessed valuation that the owner claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property and the property tax replacement credit under IC 6-1.1-21.

(d) The county auditor of each county shall determine:

(1) the amount of the county's homestead credit allotment determined under subsection (e);

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(e) There is granted under this SECTION a total of one hundred forty million dollars ($140,000,000) of homestead credits. The homestead credits shall be distributed to each county as prescribed in subsection (f). Before distribution, the department of local government

finance shall certify each county's homestead credit allotment to the department of state revenue and to each county auditor.

(f) Each county's certified homestead credit allotment, which shall be calculated by the budget agency, shall be determined under the following STEPS:

STEP ONE: For each county, determine the total property tax liability of all homestead properties in the county for the most recent calendar year before the application of any credits.

STEP TWO: For each county, determine the total property tax liability of all homestead properties resulting from property tax levies that are eliminated or replaced by this act for the most recent calendar year, before the application of any credits.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the sum of the amounts determined under STEP THREE.

STEP FIVE: Divide the amount determined in STEP THREE by the amount determined in STEP FOUR.

STEP SIX: Multiply the result of STEP THREE by one hundred forty million dollars ($140,000,000).

(g) Each county's homestead credit allotment authorized in this SECTION shall be distributed to that county not more than two (2) weeks after the county mails a property tax bill for which the homestead credit under this SECTION is granted.

(h) In addition to any other appropriations, there is appropriated one hundred forty million dollars ($140,000,000) from the state general fund to make distributions for the homestead credits provided by this SECTION for property taxes assessed for the March 1, 2008, and January 15, 2009, assessment dates. Money distributed under this subsection shall be treated as property taxes for all purposes.

(i) The department of local government finance, the department of state revenue, and the budget agency shall take the actions necessary to carry out this SECTION. The department of local government finance and the budget agency shall make the certifications required under this SECTION based on the best information available at the time the certification is made.

SECTION 850. [EFFECTIVE JULY 1, 2008] **(a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9 (before its repeal), and IC 6-1.1-21 (before its repeal) apply throughout this SECTION.**

(b) A taxpayer that is entitled to a standard deduction under

IC 6-1.1-12-37 for property taxes assessed for the March 1, 2009, and January 15, 2010, assessment dates is entitled to a homestead credit under this SECTION against the property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) imposed against the taxpayer's homestead for the March 1, 2009, and January 15, 2010, assessment dates.

(c) The amount of the credit to which an owner is entitled under this SECTION equals the product of:

(1) the percentage prescribed in subsection (d)(3); multiplied by

(2) the amount of the individual's property tax liability (as described in IC 6-1.1-21-5 (before its repeal)) that is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of all deductions from assessed valuation that the owner claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property and the property tax replacement credit under IC 6-1.1-21.

(d) The county auditor of each county shall determine:

(1) the amount of the county's homestead credit allotment determined under subsection (e);

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(e) There is granted under this SECTION a total of eighty million dollars ($80,000,000) of homestead credits. The homestead credits shall be distributed to each county as prescribed in subsection (f). Before distribution, the department of local government finance shall certify each county's homestead credit allotment to the department of state revenue and to each county auditor.

(f) Each county's certified homestead credit allotment, which shall be calculated by the budget agency, shall be determined under the following STEPS:

STEP ONE: For each county, determine the total of state homestead credits granted in the county for the most recent calendar year.

STEP TWO: Determine the sum of the amounts determined under STEP ONE.

STEP THREE: Divide the amount determined in STEP ONE by

the amount determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by eighty million dollars ($80,000,000).

(g) Each county's homestead credit allotment authorized in this SECTION shall be distributed to that county not more than two (2) weeks after the county mails a property tax bill for which the homestead credit under this SECTION is granted.

(h) In addition to any other appropriations, there is appropriated eighty million dollars ($80,000,000) from the state general fund to make distributions for the homestead credits provided by this SECTION for property taxes assessed for the March 1, 2009, and January 15, 2010, assessment dates. Money distributed under this subsection shall be treated as property taxes for all purposes.

(i) The department of local government finance, the department of state revenue, and the budget agency shall take the actions necessary to carry out this SECTION. The department of local government finance and the budget agency shall make the certifications required under this SECTION based on the best information available at the time the certification is made.

SECTION 851. [EFFECTIVE JULY 1, 2008] **Notwithstanding P.L.234-2007, SECTION 10, there is appropriated to the property tax replacement fund board one billion one hundred nineteen million seven hundred thirty-seven thousand seventy-seven dollars ($1,119,737,077) from the state general fund for total operating expenses beginning July 1, 2008, and ending June 30, 2009. The appropriation made by this SECTION is instead of, and for the same purposes as, the appropriation of two billion one hundred thirty-three million nine hundred ninety-one thousand six hundred seventy-five dollars ($2,133,991,675) made by P.L.234-2007, SECTION 10, to the board for total operating expenses beginning July 1, 2008, and ending June 30, 2009.**

SECTION 852. [EFFECTIVE JANUARY 1, 2009] **On January 1, 2009, the unencumbered balance of the property tax replacement fund, the property tax reduction trust fund, and any other fund terminated by this act shall be transferred to the state general fund.**

SECTION 853. [EFFECTIVE UPON PASSAGE] **(a) A municipal executive or county executive that is required to appoint an individual to serve as a nonvoting adviser to a redevelopment commission under IC 36-7-14-6.1, as amended by this act, shall make the initial appointment before July 1, 2008.**

(b) The legislative body of a consolidated city that is required to appoint an individual to serve as a nonvoting adviser to the metropolitan development commission under IC 36-7-4-207, as amended by this act, shall make the initial appointment before July 1, 2008.

(c) This SECTION expires July 1, 2009.

SECTION 854. [EFFECTIVE JULY 1, 2008] **(a) The definitions in P.L.234-2007, SECTION 1 apply throughout this SECTION.**

(b) The appropriation made by P.L.234-2007 to the department of education for a distribution for tuition support for the state fiscal year beginning July 1, 2008, and ending June 30, 2009, is voided. This subsection does not void the separate additional tuition support distribution appropriation made by P.L.234-2007.

(c) There is appropriated five billion two hundred thirty-four million nine hundred fifty thousand dollars ($5,234,950,000) to the department of education from the state general fund for the purposes of the total operating expenses of a distribution of tuition support under IC 20-43, beginning July 1, 2008, and ending June 30, 2009. The budget agency may transfer after June 30, 2008, and before January 1, 2009, the amount necessary, as determined by the budget agency, from the property tax replacement fund to the state general fund to fund the appropriation made by this subsection for the first six (6) months of the state fiscal year. However, the amount transferred after June 30, 2008, and before January 1, 2009, may not exceed one billion seven hundred ninety-six million one hundred eighty-seven thousand two hundred fifty-nine dollars ($1,796,187,259).

(d) The appropriation in subsection (c) shall be distributed for the purposes described in IC 20-43-2-3(a), including basic tuition support, special education programs, career and technical education programs, honors grants, and the primetime program in accordance with IC 20-43.

(e) If the appropriation in subsection (c) is more than required under this SECTION, any excess reverts to the state general fund.

(f) The appropriation in subsection (c) when added to the appropriation made for distributions of tuition support in P.L.234-2007 for the state fiscal year beginning July 1, 2007, and ending June 30, 2008, shall be made each calendar year under a schedule set by the budget agency and approved by the governor. However, the schedule must provide for at least twelve (12) payments, that one (1) payment shall be made at least every forty (40) days, and

the total of the payments in each calendar year must equal the amount required under IC 20-43.

(g) The department of education shall include in its budget request prepared under IC 4-12-1-7 and IC 4-12-1-8 for the period beginning July 1, 2009, and ending June 30, 2011, a budget request for sufficient money to make distributions under IC 20-20-34 and IC 20-43 to fund special education preschool programs and tuition support, including that part funded by property taxes before January 1, 2009.

SECTION 855. [EFFECTIVE JUNE 1, 2008] **(a) The tuition reserve account in the state general fund established by IC 4-12-1-12(b) is abolished on June 30, 2008. The auditor of state shall transfer the balance of the reserve account established by IC 4-12-1-12(b) on June 30, 2008, to the state tuition reserve fund.**

(b) On one (1) or more dates specified by the budget director, but not later than December 31, 2010, the auditor of state shall transfer a total of fifty million dollars ($50,000,000) from the unrestricted balances of the state general fund to the state tuition reserve fund for the purposes of the fund.

SECTION 856. [EFFECTIVE JULY 1, 2008] **(a) In addition to the amounts appropriated to the department of education in P.L.234-2007 for distributions to children enrolled in special education preschool programs, there is appropriated to the department of education, beginning July 1, 2008, and ending June 30, 2009, three million dollars ($3,000,000) from the state general fund for distributions to children enrolled in special education preschool programs during the period beginning January 1, 2009, and ending June 30, 2009.**

(b) This SECTION expires July 1, 2009.

SECTION 857. [EFFECTIVE JANUARY 1, 2008] **The following amounts are appropriated to the department of education from the state general fund to make distributions under IC 20-20-36, as added by this act:**

(1) Twenty-five million dollars ($25,000,000) for the state fiscal year beginning July 1, 2008, and ending June 30, 2009.

(2) Sixty million dollars ($60,000,000) for the state fiscal year beginning July 1, 2009, and ending June 30, 2010.

(3) Thirty-five million dollars ($35,000,000) for the state fiscal year beginning July 1, 2010, and ending June 30, 2011.

SECTION 858. [EFFECTIVE UPON PASSAGE] **(a) The General Assembly finds and determines the following:**

(1) Lake County and St. Joseph County are counties for which

limits to property tax liability under IC 6-1.1-20.6 (and as described in the proposed subsection (h) of Article 10, Section 1 of the Constitution of the State of Indiana as included in Senate Joint Resolution 1 of the 2008 session of the general assembly) are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%).

(2) Lake County and St. Joseph County are each an eligible county for purposes of:

(A) the proposed subsection (h) of Article 10, Section 1 of the Constitution of the State of Indiana as included in Senate Joint Resolution 1 of the 2008 session of the general assembly; and

(B) IC 6-1.1-20.6.

SECTION 859. [EFFECTIVE JULY 1, 2008] **In addition to the amounts appropriated in P.L.234-2007, there is appropriated from the state general fund to the state forestry fund two million five hundred fifty-two thousand six dollars ($2,552,006) for use by the department of natural resources for the purposes of the state forestry fund during the period beginning July 1, 2008, and ending June 30, 2009.**

SECTION 860. [EFFECTIVE JULY 1, 2008] **In addition to the amounts appropriated in P.L.234-2007, there is appropriated from the state general fund to the state fair fund one million three hundred thousand three hundred eighty-five dollars ($1,300,385) for use by the state fair commission for the purposes of the state fair fund during the period beginning July 1, 2008, and ending June 30, 2009.**

SECTION 861. [EFFECTIVE JULY 1, 2008] **(a) In addition to any other appropriation, there is appropriated to the department of education from the state general fund ten million dollars ($10,000,000) for the state fiscal year beginning July 1, 2008, and ending June 30, 2009, to make new facility adjustment distributions that are approved by the department of local government finance under IC 20-43-11.5, as added by this act.**

(b) This SECTION expires July 1, 2010.

SECTION 862. [EFFECTIVE JULY 1, 2008] **(a) This SECTION applies whenever a school corporation appeals to the department of local government finance before January 1, 2009, to make up a shortfall in a tuition support levy that resulted:**

(1) because erroneous assessed valuation figures or tax rate

calculations were used to determine the school corporation's total property tax rate; or

(2) because of the payment of refunds that resulted from appeals under IC 6-1.1 and IC 6-1.5.

(b) The following definitions apply throughout this SECTION:

(1) "Excessive tax levy" means a property tax levy for the school corporation's general fund for a calendar year.

(2) "School corporation" has the meaning set forth in IC 20-18-2-16.

(3) "Shortfall" means a loss in property tax collections from a tuition support levy resulting from a reason described in subsection (a).

(4) "Tax control board" refers to the school property tax control board established under IC 6-1.1-19-4.1.

(5) "Tuition support levy" refers to a property tax levy imposed under IC 6-1.1-19-1.5 (before its repeal) or IC 20-45-3-11 (before its repeal) for a year before January 1, 2009.

(c) The department of local government finance shall transmit the appeal to the tax control board. The tax control board shall conduct a hearing and determine whether:

(1) a shortfall has occurred; and

(2) the appellant school corporation cannot carry out the public educational duties committed to the appellant school corporation by law if the appellant school corporation does not receive emergency financial relief for the ensuing calendar year.

(d) If the tax control board makes the determinations described in subsection (c), the tax control board shall recommend to the department of local government finance that the appellant school corporation be permitted to collect an excessive tax levy in 2009 in the amount that does not exceed the result of:

(1) the school corporation's tuition support levy for the year covered by the appeal, as finally approved by the department of local government finance, and after subtracting the amount of revenue lost (if any) to the school corporation's general fund as a result of the application of the circuit breaker credit under IC 6-1.1-20.6 to the tuition support levy; minus

(2) the amount received by the school corporation from the tuition support levy.

(e) If the tax control board makes a recommendation under subsection (d), the tax control board may also recommend to the

department of local government finance that the school corporation receive any of the following emergency financial relief:

(1) A grant or grants from any funds of the state that are available for that purpose.

(2) A loan or loans from any funds of the state that are available for that purpose.

(3) Permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan.

(4) An advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations.

(5) Permission to the appellant school corporation to:

(A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's capital projects fund; or

(B) use for general fund purposes:

(i) any unobligated balance in the appellant school corporation's capital projects fund; and

(ii) the proceeds of any levy made or to be made by the school corporation for the school corporation's capital projects fund.

(6) Permission to use, for general fund purposes, any unobligated balance in any debt service or other construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds.

(7) A combination of the emergency financial relief described in subdivisions (1) through (6).

(f) A recommendation made by the tax control board under this SECTION must specify the amount of the proposed excessive tax levy. Notwithstanding any other law, the department of local government finance may authorize the school corporation to make an excessive tax levy in 2009 in accordance with a recommendation under this SECTION without any other proceeding. Whenever the department of local government finance authorizes an excessive tax levy under this SECTION, the department of local government finance shall take appropriate steps to ensure that the proceeds of the excessive tax levy are first used to repay any loan authorized under this SECTION. The department of local government finance or another state agency may also take appropriate action to implement any additional

recommendations made under subsection (d).

(g) This SECTION expires January 1, 2010.

SECTION 863. [EFFECTIVE JANUARY 1, 2009] **IC 6-3-4-4.1, IC 6-3-4-15.7, IC 6-3.5-1.1-18, IC 6-3.5-6-22, and IC 6-3.5-7-18, all as amended by this act, apply only to taxable years beginning after December 31, 2008.**

SECTION 864. [EFFECTIVE JANUARY 1, 2009] **IC 6-3.1-21-6, as amended by this act, applies to taxable years beginning after December 31, 2008.**

SECTION 865. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **(a) Notwithstanding any provision in IC 5-11-10.5 or any other law, a warrant issued by a county auditor for a refund of an additional 2007 homestead credit under P.L.234-2007, SECTION 300, as amended by P.L.1-2008, SECTION 5, that is:**

(1) outstanding and unpaid for one hundred eighty (180) days after the warrant is issued; and

(2) for an amount that is not more than ten dollars ($10);

is void. An individual, a bank, a trust company, a building and loan association, or any other financial institution may not honor, cash, or accept for payment or deposit a warrant that meets the requirements of subdivisions (1) and (2).

(b) The amount of an outstanding warrant that is voided under subsection (a) shall be paid by the county treasurer to the treasurer of state for deposit in the property tax reduction trust fund established by IC 4-35-8-2 not more than ninety (90) days after the warrant is voided.

(c) This SECTION expires January 1, 2010.

SECTION 866. [EFFECTIVE UPON PASSAGE] **(a) The department of local government finance may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out the department's authority under IC 6-1.1 to establish standards for computer systems used by Indiana counties for the administration of the property tax assessment, billing, and settlement processes. A temporary rule adopted under this SECTION must comply with the requirements described in IC 6-1.1-31-1(4) and IC 6-1.1-31.5-3.5(c). A temporary rule adopted under this SECTION expires on the earlier of the following:**

(1) The date specified by the department of local government finance in the temporary rule.

(2) The date that the department of local government finance

adopts another temporary rule under this SECTION or a rule under IC 4-22-2 that amends, repeals, or otherwise supersedes the emergency rule.

(3) July 1, 2009.

(b) After the effective date of this SECTION, IC 6-1.1-31-1, as amended by this act, applies to all rules and standards of the department of local government finance, including rules or standards adopted before the effective date of this SECTION.

(c) IC 6-1.1-33.5-8 and IC 6-1.1-33.5-9, as added by this act, apply to all systems described in IC 6-1.1-33.5-8, as added by this act, that are tested or operated after the effective date of this SECTION, including systems for which development began before the effective date of this SECTION.

SECTION 867. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding any provision in IC 6-3.5-1.1 (including the August 1 deadlines applicable under IC 6-3.5-1.1-24(a), IC 6-3.5-1.1-24(b), IC 6-3.5-1.1-25(i), and IC 6-3.5-1.1-26(e)), a county council may in 2008 adopt or increase an additional county adjusted gross income tax rate under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 at any time before January 1, 2009.**

(b) Notwithstanding any provision in IC 6-3.5-6 (including the August 1 deadlines applicable under IC 6-3.5-6-30(a), IC 6-3.5-6-30(b), IC 6-3.5-6-31(i), and IC 6-3.5-6-32(e)), a county income tax council or county council, as applicable, may in 2008 adopt or increase an additional county option income tax rate under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 at any time before January 1, 2009.

(c) Notwithstanding any provision of IC 6-3.5-1.1 or IC 6-3.5-6, any additional county adjusted gross income tax rate adopted or increased in 2008 under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 and any additional county option income tax rate adopted or increased in 2008 under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32 takes effect as follows:

(1) In the case of an ordinance adopted before October 1, 2008, the tax rate takes effect October 1, 2008.

(2) In the case of an ordinance adopted after September 30, 2008, and before October 16, 2008, the tax rate takes effect November 1, 2008.

(3) In the case of an ordinance adopted after October 15, 2008, and before November 16, 2008, the tax rate takes effect December 1, 2008.

(4) In the case of an ordinance adopted after November 15, 2008, and before January 1, 2009, the tax rate takes effect January 1, 2009.

SECTION 868. [EFFECTIVE JULY 1, 2007 (RETROACTIVE)] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) A reference in this SECTION to IC 6-1.1-15-1 is a reference to that section as in effect on July 1, 2007.

(c) Notwithstanding IC 6-1.1-15-1(b), a taxpayer that receives a tax statement under IC 6-1.1-22 or a provisional tax statement (as defined in IC 6-1.1-22.5-2) for the first installment of property taxes based on the assessment date in 2007 and first due and payable in 2008 may appeal the assessment under IC 6-1.1-15-1 by filing a notice in writing with the county or township official referred to in IC 6-1.1-15-1(a) not later than the later of:

(1) forty-five (45) days after:

(A) the tax statement under IC 6-1.1-22; or

(B) the reconciling statement (as defined in IC 6-1.1-22.5-4) that reconciles the taxes from the provisional tax statement;

is given to the taxpayer; or

(2) July 1, 2008.

(d) This SECTION expires January 1, 2010.

SECTION 869. [EFFECTIVE JULY 1, 2008] **Notwithstanding any other provision, for property taxes first due and payable after December 31, 2008, and for budget years after 2008, the department of local government finance shall adjust the maximum permissible ad valorem property tax levy, the budget, the excise tax and local option income tax distributions, and the tax rates of any political subdivision or taxing unit as necessary to account for any changes made by this act, including the elimination of any property tax levies by this act or the transfer of governmental responsibilities by this act.**

SECTION 870. [EFFECTIVE UPON PASSAGE] **(a) The state board of accounts shall design the form required by IC 6-1.1-20-3.5(b)(5), as added by this act, before June 15, 2008.**

(b) This SECTION expires January 1, 2009.

SECTION 871. [EFFECTIVE UPON PASSAGE] **(a) The legislative services agency shall prepare legislation for introduction in the 2009 regular session of the general assembly to correct statutes affected by this act.**

(b) This SECTION expires July 1, 2009.

SECTION 872. **An emergency is declared for this act.**

P.L.147-2008
[SJ. 1. Enrolled March 14, 2008.]

A JOINT RESOLUTION proposing an amendment to Article 10, Section 1 of the Constitution of the State of Indiana concerning taxation.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fifteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 10, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. (a) **Subject to this section,** the General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal.

(b) A provision of this section permitting the General Assembly to exempt property from taxation also permits the General Assembly to exercise its legislative power to enact property tax deductions and credits for the property. The General Assembly may impose reasonable filing requirements for an exemption, deduction, or credit.

(c) The General Assembly may exempt from property taxation any property in any of the following classes:

(1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.

(2) Tangible personal property other than property being held as an investment.

(3) Intangible personal property.

(4) Tangible ~~real~~ property, including curtilage, used as a principal place of residence by an:

(A) owner of the property;

(B) individual who is buying the tangible ~~real~~ property under a contract; or

(C) individual who has a beneficial interest in the owner of the

tangible ~~real~~ property.

~~(b)~~ **(d)** The General Assembly may exempt any motor vehicles, mobile homes **(not otherwise exempt under this section),** airplanes, boats, trailers, or similar property, provided that an excise tax in lieu of the property tax is substituted therefor.

(e) This subsection applies to property taxes first due and payable in 2012 and thereafter. The following definitions apply to subsection (f):

(1) "Other residential property" means tangible property (other than tangible property described in subsection (c)(4)) that is used for residential purposes.

(2) "Agricultural land" means land devoted to agricultural use.

(3) "Other real property" means real property that is not tangible property described in subsection (c)(4), is not other residential property, and is not agricultural land.

(f) This subsection applies to property taxes first due and payable in 2012 and thereafter. The General Assembly shall, by law, limit a taxpayer's property tax liability as follows:

(1) A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(2) A taxpayer's property tax liability on other residential property may not exceed two percent (2%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(3) A taxpayer's property tax liability on agricultural land may not exceed two percent (2%) of the gross assessed value of the land that is the basis for the determination of property taxes.

(4) A taxpayer's property tax liability on other real property may not exceed three percent (3%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(5) A taxpayer's property tax liability on personal property (other than personal property that is tangible property described in subsection (c)(4) or personal property that is other residential property) within a particular taxing district may not exceed three percent (3%) of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within the taxing district.

(g) This subsection applies to property taxes first due and payable

in 2012 and thereafter. Property taxes imposed after being approved by the voters in a referendum shall not be considered for purposes of calculating the limits to property tax liability under subsection (f).

(h) As used in this subsection, "eligible county" means only a county for which the General Assembly determines in 2008 that limits to property tax liability as described in subsection (f) are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). The General Assembly may, by law, provide that property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating the limits to property tax liability under subsection (f). Such a law may not apply after December 31, 2019.

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.1-2008 through P.L.147-2008 of the Second Regular Session of the One Hundred Fifteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 11th day of April, 2008.

David C. Long
President Pro Tempore, Senate

B. Patrick Bauer
Speaker, House of Representatives

Seal

STATEMENT OF FUND NET ASSETS OF AUDITOR OF STATE

For the Year Ended June 30, 2007
(amount expressed in thousands)

	Balance 07/01/06	Revenues	Expenditures	Balance 06/30/07
Governmental Funds				
General Fund	$ 1,829,583	$ 9,653,635	$ 8,374,702	$ 2,262,830
Other Financing Sources (Net)		(845,686)		
Special Revenue Funds	4,561,942	13,299,724	13,487,268	4,696,087
Other Financing Sources (Net)		321,689		
Special item: Proceeds from lease of Toll Road				
Highway Fund	415,282	925,004	1,516,547	517,912
Other Financing Sources (Net)		694,173		
Capital Projects Funds	166,219	181,449	35,749	173,765
Other Financing Sources (Net)		(138,154)		
Permanent Funds	1,035,162	54,403	43,893	1,077,585
Other Financing Sources (Net)		31,913		
Special item: Proceeds from lease of Toll Road		-		
Proprietary Funds				
Enterprise Funds	458,757	644,317	791,618	353,481
Nonoperating Revenues (Net)		41,019		
Operating Transfers (Net)		1,006		
Internal Service Funds	64,722	400,112	387,607	74,815
Nonoperating Revenues (Net)		(1,185)		
Operating Transfers (Net)		(1,227)		
Fiduciary Funds				
Pension Trust Funds	350,680	65,329	24,685	391,324
Private-Purpose Trust Funds	40,900	154,709	159,787	35,822
Total	$ 8,923,247	$ 25,482,230	$ 24,821,856	$ 9,583,621

Please see the State's Comprehensive Annual Financial Report for more information

TABLES

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Affected Provisions	Type	SEC.	Effective	P.L.
Noncode				
0-2001-38-4	Repealed	816	01/01/2009	146-2008
0-2002-1-164	Repealed	816	01/01/2009	146-2008
0-2006-35-1	Amended	1	06/30/2008	7-2008
0-2006-165-42	Amended	69	07/01/2008	94-2008
0-2007-196-7	Amended	66	01/01/2001	131-2008
0-2007-224-139	Repealed	801	03/19/2008	146-2008
0-2007-224-140	Repealed	801	03/19/2008	146-2008
0-2007-230-26	Amended	270	03/13/2008	3-2008
0-2007-234-48	Amended	271	03/13/2008	3-2008
0-2007-234-173	Amended	14	03/24/2008	143-2008
0-2007-234-173	Amended	65	03/24/2008	131-2008
0-2007-234-179	Amended	71	07/01/2007	131-2008
0-2007-234-300	Amended	5	11/21/2007	1-2008
0-2007-234-301	Amended	6	11/21/2007	1-2008
Title 2				
2-5-1.5-5	Amended	1	07/01/2008	127-2008
2-5-26-8	Amended	1	07/01/2008	113-2008
2-5-26-15	Repealed	8	07/01/2008	113-2008
2-5-29	New	1	07/01/2008	69-2008
Title 3				
3-5-2-49.9	Amended	1	03/21/2008	108-2008
3-7-15-2	Amended	1	03/19/2008	146-2008
3-8-1-5	Amended	1	07/01/2008	37-2008
3-8-1-23	Amended	2	07/01/2008	146-2008
3-8-1-23.4	Repealed	801	03/19/2008	146-2008
3-8-1-23.4	New	1	03/13/2008	3-2008
3-8-1-23.5	Repealed	801	03/19/2008	146-2008
3-8-1-23.5	Repealed	269	03/13/2008	3-2008
3-8-1-23.6	Amended	3	03/19/2008	146-2008
3-8-1-23.6	New	2	03/13/2008	3-2008
3-10-1-19	Amended	4	01/01/2009	146-2008
3-10-2-13	Amended	5	01/01/2009	146-2008
3-10-2-14	Repealed	818	07/01/2008	146-2008
3-11-2-12	Amended	6	01/01/2009	146-2008
3-11-2-12.8	Repealed	801	03/19/2008	146-2008
3-11-6.5-4	Amended	2	03/21/2008	108-2008
3-11-17-6	Amended	3	03/13/2008	3-2008
3-11-18-20	Amended	3	03/21/2008	108-2008

Affected Provisions	Type	SEC.	Effective	P.L.
Title 4				
4-1-2-1	Amended	1	07/01/2008	13-2008
4-1-10-5	Amended	1	07/01/2008	106-2008
4-4-2.3-2	Amended	14	07/01/2008	2-2008
4-4-10.9-22	Amended	1	07/01/2008	98-2008
4-4-11-15	Amended	15	07/01/2008	2-2008
4-4-11-15	Amended	2	07/01/2008	98-2008
4-5-1-11	Amended	2	07/01/2008	106-2008
4-6-9-7.5	New	1	07/01/2008	136-2008
4-6-12-3.5	New	1	03/24/2008	145-2008
4-6-12-8	Amended	2	07/01/2008	145-2008
4-8.1-2-4	Amended	1	07/01/2008	115-2008
4-10-11-2.1	Amended	4	03/13/2008	3-2008
4-10-13-2	Amended	7	07/01/2008	146-2008
4-10-18-1	Amended	8	07/01/2008	146-2008
4-10-18-8	Amended	9	01/01/2009	146-2008
4-10-21-2	Amended	10	01/01/2009	146-2008
4-10-21-5	Amended	11	01/01/2009	146-2008
4-10-21-6	Amended	12	01/01/2009	146-2008
4-12-1-12	Amended	13	07/01/2008	146-2008
4-12-1-15.7	New	14	06/01/2008	146-2008
4-13-16.5-1	Amended	5	03/13/2008	3-2008
4-13-16.5-1	Amended	1	07/01/2008	87-2008
4-13-16.5-2	Amended	2	07/01/2008	87-2008
4-13-16.5-4	Amended	6	03/13/2008	3-2008
4-15-2-18	Amended	7	03/13/2008	3-2008
4-15-7-1	Amended	8	03/13/2008	3-2008
4-21.5-3.5-8	Amended	1	07/01/2008	114-2008
4-21.5-4-5	Amended	16	07/01/2008	2-2008
4-21.5-7-5	Amended	1	07/01/2008	84-2008
4-21.5-7-5.5	New	2	07/01/2008	84-2008
4-22-2-37.1	Amended	17	07/01/2008	2-2008
4-22-2-37.1	Amended	9	07/01/2008	3-2008
4-22-2-37.1	Amended	1	07/01/2008	90-2008
4-22-2-37.1	Amended	1	02/22/2008	8-2008
4-23-2-7	New	1	02/22/2008	10-2008
4-23-6.5-10	Amended	10	03/13/2008	3-2008
4-23-7.3-14	Amended	11	03/13/2008	3-2008
4-23-25-9	Amended	1	03/21/2008	104-2008
4-23-25-11	Repealed	23	03/21/2008	104-2008
4-24-7-2	Repealed	808	01/01/2009	146-2008
4-24-7-4	Amended	15	01/01/2009	146-2008
4-30-16-3	Amended	16	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
4-31-3-8	Amended	18	07/01/2008	2-2008
4-31-9-9	Amended	19	07/01/2008	2-2008
4-32.2-1-1	Amended	1	07/01/2008	95-2008
4-32.2-1-2	Amended	2	07/01/2008	95-2008
4-32.2-2-21	Amended	3	07/01/2008	95-2008
4-32.2-2-30	Amended	4	07/01/2008	95-2008
4-32.2-3-3	Amended	5	07/01/2008	95-2008
4-32.2-4-9	Amended	6	07/01/2008	95-2008
4-32.2-4-13	Amended	7	07/01/2008	95-2008
4-32.2-5-1.5	New	8	07/01/2008	95-2008
4-32.2-5-6	Amended	9	07/01/2008	95-2008
4-32.2-5-14	Amended	10	07/01/2008	95-2008
4-32.2-6-0.5	New	11	07/01/2008	95-2008
4-33-2-11.6	Amended	12	03/13/2008	3-2008
4-33-5-1.5	Amended	2	03/21/2008	104-2008
4-33-12-6	Amended	17	01/01/2009	146-2008
4-33-12-6	Amended	13	07/01/2008	3-2008
4-33-13-5	Amended	18	01/01/2009	146-2008
4-33-13-5	Amended	14	03/13/2008	3-2008
4-33-19-6	Amended	1	07/01/2008	94-2008
4-35-5-3	Amended	19	01/01/2009	146-2008
4-35-5-4	Amended	20	01/01/2009	146-2008
4-35-6.5-8	Amended	15	03/13/2008	3-2008
4-35-7-12	Amended	21	01/01/2009	146-2008
4-35-7-13	Amended	12	07/01/2008	95-2008
4-35-8-2	Repealed	813	01/01/2009	146-2008
4-35-8-3	Amended	22	01/01/2009	146-2008
4-35-8-4	Repealed	813	01/01/2009	146-2008
4-35-10-3	New	3	03/21/2008	104-2008
4-35-11-3	Amended	3	07/01/2008	87-2008
4-35-11-4	Amended	4	07/01/2008	87-2008
4-35-11-5	Amended	5	07/01/2008	87-2008
4-35-11-8	Amended	6	07/01/2008	87-2008
4-35-11-9	Amended	7	07/01/2008	87-2008
4-36	New	13	07/01/2008	95-2008

Title 5

5-1-1-1	Amended	16	03/13/2008	3-2008
5-1-5-1	Amended	23	07/01/2008	146-2008
5-1-5-17	New	24	07/01/2008	146-2008
5-1-5-18	New	25	07/01/2008	146-2008
5-1-13-1	Amended	26	07/01/2008	146-2008
5-1-13-2	Amended	27	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
5-1-14-1.3	New	28	07/01/2008	146-2008
5-1-14-10	Amended	29	07/01/2008	146-2008
5-1-14-15	Amended	30	07/01/2008	146-2008
5-1-14-16	New	31	07/01/2008	146-2008
5-1-16-42	Amended	32	07/01/2008	146-2008
5-1-16.5-48	Amended	17	03/13/2008	3-2008
5-2-1-9	Amended	1	03/24/2008	128-2008
5-2-6-3	Amended	1	07/01/2008	107-2008
5-2-6-3	Amended	18	03/13/2008	3-2008
5-2-6-5	Amended	19	03/13/2008	3-2008
5-2-6-18	Amended	20	03/13/2008	3-2008
5-2-6-23	New	4	03/21/2008	104-2008
5-2-6.5	New	2	07/01/2008	107-2008
5-2-14	Repealed	269	03/13/2008	3-2008
5-4-1-8	Amended	33	07/01/2008	146-2008
5-4-1-18	Amended	34	07/01/2008	146-2008
5-8-1-37	Repealed	4	07/01/2008	37-2008
5-8-1-38	New	2	07/01/2008	37-2008
5-9-3-2	Amended	21	03/13/2008	3-2008
5-10-1.1-3.5	Amended	22	03/13/2008	3-2008
5-10-5.5-9	Amended	2	03/24/2008	128-2008
5-10-5.5-10	Amended	3	03/24/2008	128-2008
5-10-5.5-12	Amended	23	03/13/2008	3-2008
5-10-5.5-22	New	4	03/24/2008	128-2008
5-10-6-2	New	2	07/01/2008	13-2008
5-10-8-2.2	Amended	24	03/13/2008	3-2008
5-10-8-14	New	1	07/01/2008	109-2008
5-10-8.5-16	Amended	25	03/13/2008	3-2008
5-10-8.5-18	Amended	1	08/01/2007	124-2008
5-10-10-4	Amended	26	03/13/2008	3-2008
5-10-10-4	Amended	2	07/01/2008	115-2008
5-10-10-4.7	New	3	07/01/2008	115-2008
5-10.2-1-8	Amended	4	07/01/2008	115-2008
5-10.2-2-8	Amended	5	07/01/2008	115-2008
5-10.2-3-1.2	Amended	6	07/01/2008	115-2008
5-10.2-3-3	Amended	1	07/01/2008	76-2008
5-10.2-3-6.2	Amended	7	07/01/2008	115-2008
5-10.2-3-6.5	New	8	07/01/2008	115-2008
5-10.2-4-1.3	Amended	9	07/01/2008	115-2008
5-10.2-4-1.9	New	10	07/01/2008	115-2008
5-10.2-4-2	Amended	11	07/01/2008	115-2008
5-10.2-4-4	Amended	12	07/01/2008	115-2008
5-10.2-4-6	Amended	2	01/01/2008	124-2008
5-10.2-4-6	Amended	1	07/01/2008	131-2008

Affected Provisions	Type	SEC.	Effective	P.L.
5-10.2-4-7	Amended	13	07/01/2008	115-2008
5-10.2-4-7	Amended	1	07/01/2008	93-2008
5-10.2-4-7.2	Amended	2	03/19/2008	93-2008
5-10.2-4-7.2	Amended	1	07/01/2007	9-2008
5-10.2-4-8	Amended	1	07/01/2008	130-2008
5-10.2-4-8	Amended	2	07/01/2008	76-2008
5-10.2-4-8.4	Amended	3	01/01/2008	93-2008
5-10.2-4-9	Amended	3	07/01/2008	76-2008
5-10.2-4-10	Amended	4	07/01/2008	76-2008
5-10.2-5-34	Repealed	3	01/01/2009	12-2008
5-10.2-5-43	New	1	07/01/2008	12-2008
5-10.2-5-43.4	New	3	07/01/2008	124-2008
5-10.3-5-5	Amended	2	07/01/2008	90-2008
5-10.3-8-10	Amended	2	07/01/2008	12-2008
5-10.3-11-4	Amended	35	01/01/2009	146-2008
5-10.3-11-4.5	Repealed	814	01/01/2009	146-2008
5-10.3-11-4.7	Amended	36	01/01/2009	146-2008
5-10.3-11-6	Amended	37	01/01/2009	146-2008
5-10.4-3-13	Amended	3	07/01/2008	90-2008
5-10.4-4-11	Amended	5	07/01/2008	76-2008
5-10.4-5-13	Amended	6	07/01/2008	76-2008
5-13-6-3	Amended	38	01/01/2009	146-2008
5-13-9-10	Amended	27	03/13/2008	3-2008
5-13-10.5-3	Amended	14	03/24/2008	115-2008
5-13-12-4	Amended	39	07/01/2008	146-2008
5-14-1.5-6.1	Amended	20	07/01/2008	2-2008
5-14-1.5-6.1	Amended	3	07/01/2008	98-2008
5-14-1.5-6.1	Amended	1	07/01/2008	120-2008
5-14-3-2	Amended	28	03/13/2008	3-2008
5-14-3-2	Amended	1	07/01/2008	51-2008
5-14-3-4	Amended	2	07/01/2008	120-2008
5-14-3-4	Amended	4	07/01/2008	98-2008
5-14-3-4	Amended	2	07/01/2008	51-2008
5-14-3-4	Amended	29	03/13/2008	3-2008
5-14-3-4.9	New	5	03/19/2008	98-2008
5-14-3-8	Amended	1	07/01/2008	16-2008
5-16-8-1	Amended	30	03/13/2008	3-2008
5-20-1-4	Amended	1	07/01/2008	133-2008
5-20-1-4	Amended	3	07/01/2008	145-2008
5-20-1-4.5	Amended	4	07/01/2008	145-2008
5-20-1-5	Repealed	34	07/01/2008	145-2008
5-20-1-6	Repealed	34	07/01/2008	145-2008
5-20-1-8	Amended	5	07/01/2008	145-2008
5-20-1-18	Amended	6	07/01/2008	145-2008

Affected Provisions	Type	SEC.	Effective	P.L.
5-20-1-27	Amended	7	07/01/2008	145-2008
5-20-3-4	Amended	8	07/01/2008	145-2008
5-20-4-7	Amended	31	03/13/2008	3-2008
5-22-4-9	Repealed	806	01/01/2009	146-2008
5-22-15-1	Amended	1	07/01/2008	79-2008
5-22-15-3	Amended	2	07/01/2008	79-2008
5-22-15-5	Amended	3	07/01/2008	79-2008
5-22-15-8	Amended	4	07/01/2008	79-2008
5-22-15-10	Amended	5	07/01/2008	79-2008
5-22-15-20.7	New	6	07/01/2008	79-2008
5-22-22-12	Amended	5	07/01/2008	128-2008
5-24-1-4	New	2	07/01/2008	114-2008
5-28-6-2	Amended	3	07/01/2008	120-2008
5-28-9-16	Amended	40	01/01/2009	146-2008
5-28-15-3	Amended	41	01/01/2008	146-2008
5-28-15-5	Amended	42	01/01/2008	146-2008
5-28-15-8	Amended	43	07/01/2008	146-2008
5-28-26-18	Amended	44	07/01/2008	146-2008

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6-1.1-1-1.5	Amended	45	07/01/2008	146-2008
6-1.1-1-3	Amended	46	01/01/2009	146-2008
6-1.1-1-5.5	Repealed	818	07/01/2008	146-2008
6-1.1-1-8.4	New	47	01/01/2008	146-2008
6-1.1-1-9	Amended	1	03/21/2008	101-2008
6-1.1-1-11	Amended	2	01/01/2009	131-2008
6-1.1-1-11	Amended	48	01/01/2008	146-2008
6-1.1-1-15	Amended	49	07/01/2008	146-2008
6-1.1-1-22	Repealed	818	07/01/2008	146-2008
6-1.1-1-22.7	Repealed	818	07/01/2008	146-2008
6-1.1-1-24	Amended	32	03/13/2008	3-2008
6-1.1-2-7	Amended	3	01/01/2009	131-2008
6-1.1-2-7	Amended	50	01/01/2008	146-2008
6-1.1-3-1	Amended	51	07/01/2008	146-2008
6-1.1-3-4	Amended	52	07/01/2008	146-2008
6-1.1-3-5	Amended	53	07/01/2008	146-2008
6-1.1-3-6	Amended	54	07/01/2008	146-2008
6-1.1-3-7	Amended	55	07/01/2008	146-2008
6-1.1-3-11	Repealed	800	01/01/2008	146-2008
6-1.1-3-12	Repealed	800	01/01/2008	146-2008
6-1.1-3-13	Repealed	800	01/01/2008	146-2008
6-1.1-3-14	Amended	56	07/01/2008	146-2008
6-1.1-3-15	Amended	57	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-3-16	Amended	58	07/01/2008	146-2008
6-1.1-3-17	Amended	59	07/01/2008	146-2008
6-1.1-3-18	Amended	60	07/01/2008	146-2008
6-1.1-3-19	Amended	61	07/01/2008	146-2008
6-1.1-3-20	Amended	62	07/01/2008	146-2008
6-1.1-3-21	Amended	63	07/01/2008	146-2008
6-1.1-4-4	Amended	64	07/01/2008	146-2008
6-1.1-4-4.7	Amended	65	07/01/2008	146-2008
6-1.1-4-12.4	Amended	66	07/01/2008	146-2008
6-1.1-4-12.6	Amended	67	07/01/2008	146-2008
6-1.1-4-13.6	Amended	68	07/01/2008	146-2008
6-1.1-4-13.8	Repealed	802	07/01/2008	146-2008
6-1.1-4-15	Amended	69	07/01/2008	146-2008
6-1.1-4-16	Amended	70	07/01/2008	146-2008
6-1.1-4-17	Amended	71	07/01/2008	146-2008
6-1.1-4-18.5	Amended	72	07/01/2008	146-2008
6-1.1-4-19.5	Amended	73	07/01/2008	146-2008
6-1.1-4-20	Amended	74	07/01/2008	146-2008
6-1.1-4-21	Amended	75	07/01/2008	146-2008
6-1.1-4-22	Amended	76	07/01/2008	146-2008
6-1.1-4-25	Amended	77	07/01/2008	146-2008
6-1.1-4-27.5	Amended	78	07/01/2008	146-2008
6-1.1-4-28.5	Amended	79	07/01/2008	146-2008
6-1.1-4-29	Amended	80	07/01/2008	146-2008
6-1.1-4-31	Amended	81	07/01/2008	146-2008
6-1.1-4-31.5	Amended	82	01/01/2009	146-2008
6-1.1-4-31.6	Amended	83	07/01/2008	146-2008
6-1.1-4-31.7	Amended	84	07/01/2008	146-2008
6-1.1-4-39	Amended	85	07/01/2008	146-2008
6-1.1-4-39.5	Amended	86	07/01/2008	146-2008
6-1.1-5-8	Amended	87	07/01/2008	146-2008
6-1.1-5-9	Amended	88	07/01/2008	146-2008
6-1.1-5-9.1	Amended	89	07/01/2008	146-2008
6-1.1-5-10	Amended	90	07/01/2008	146-2008
6-1.1-5-11	Amended	91	07/01/2008	146-2008
6-1.1-5-14	Amended	92	07/01/2008	146-2008
6-1.1-5-15	Amended	93	07/01/2008	146-2008
6-1.1-5.5-1	Amended	1	07/01/2008	144-2008
6-1.1-5.5-2	Amended	2	07/01/2008	144-2008
6-1.1-5.5-3	Amended	3	07/01/2008	144-2008
6-1.1-5.5-3	Amended	94	07/01/2008	146-2008
6-1.1-5.5-4	Amended	4	07/01/2008	144-2008
6-1.1-5.5-5	Amended	5	07/01/2008	144-2008
6-1.1-5.5-6	Amended	6	07/01/2008	144-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-5.5-10	Amended	7	07/01/2008	144-2008
6-1.1-5.5-12	Amended	8	07/01/2008	144-2008
6-1.1-7-3	Amended	95	07/01/2008	146-2008
6-1.1-7-5	Amended	96	01/01/2009	146-2008
6-1.1-7-7	Amended	33	03/13/2008	3-2008
6-1.1-8-23	Amended	97	07/01/2008	146-2008
6-1.1-8-24	Amended	98	07/01/2008	146-2008
6-1.1-8-33	Amended	99	07/01/2008	146-2008
6-1.1-8-39	Amended	100	07/01/2008	146-2008
6-1.1-8.5-7	Amended	101	07/01/2008	146-2008
6-1.1-9-1	Amended	102	07/01/2008	146-2008
6-1.1-9-6	Amended	103	07/01/2008	146-2008
6-1.1-10-10	Amended	104	07/01/2008	146-2008
6-1.1-10-13	Amended	105	07/01/2008	146-2008
6-1.1-10-14	Amended	106	07/01/2008	146-2008
6-1.1-10-29	Repealed	800	01/01/2008	146-2008
6-1.1-10-29.3	Repealed	800	01/01/2008	146-2008
6-1.1-10-29.5	Repealed	800	01/01/2008	146-2008
6-1.1-10-30	Repealed	800	01/01/2008	146-2008
6-1.1-10-30.5	Repealed	800	01/01/2008	146-2008
6-1.1-10-31.1	Repealed	800	01/01/2008	146-2008
6-1.1-10-31.4	Repealed	800	01/01/2008	146-2008
6-1.1-10-31.5	Repealed	800	01/01/2008	146-2008
6-1.1-10-31.6	Repealed	800	01/01/2008	146-2008
6-1.1-10-31.7	Repealed	800	01/01/2008	146-2008
6-1.1-10-38	Amended	21	07/01/2008	2-2008
6-1.1-10-40	Repealed	800	01/01/2008	146-2008
6-1.1-10-43	Repealed	800	01/01/2008	146-2008
6-1.1-10.1	Repealed	800	01/01/2008	146-2008
6-1.1-10.1-12	Amended	34	03/13/2008	3-2008
6-1.1-11-3	Amended	107	07/01/2008	146-2008
6-1.1-12-1	Amended	9	01/01/2008	144-2008
6-1.1-12-2	Amended	10	01/01/2008	144-2008
6-1.1-12-3	Amended	11	01/01/2008	144-2008
6-1.1-12-4	Amended	12	01/01/2008	144-2008
6-1.1-12-9	Amended	13	01/01/2008	144-2008
6-1.1-12-10.1	Amended	14	01/01/2008	144-2008
6-1.1-12-11	Amended	15	01/01/2008	144-2008
6-1.1-12-12	Amended	108	01/01/2009	146-2008
6-1.1-12-12	Amended	16	01/01/2008	144-2008
6-1.1-12-13	Amended	17	01/01/2008	144-2008
6-1.1-12-14	Amended	35	03/13/2008	3-2008
6-1.1-12-14	Amended	18	01/01/2008	144-2008
6-1.1-12-15	Amended	19	01/01/2008	144-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-12-16	Amended	20	01/01/2008	144-2008
6-1.1-12-17	Amended	21	01/01/2008	144-2008
6-1.1-12-17.4	Amended	22	01/01/2008	144-2008
6-1.1-12-17.5	Amended	23	01/01/2008	144-2008
6-1.1-12-17.8	Amended	24	01/01/2008	144-2008
6-1.1-12-17.9	Amended	2	03/21/2008	101-2008
6-1.1-12-18	Amended	25	01/01/2008	144-2008
6-1.1-12-20	Amended	26	01/01/2008	144-2008
6-1.1-12-20	Amended	109	07/01/2008	146-2008
6-1.1-12-22	Amended	27	01/01/2008	144-2008
6-1.1-12-24	Amended	28	01/01/2008	144-2008
6-1.1-12-24	Amended	110	07/01/2008	146-2008
6-1.1-12-27.1	Amended	111	07/01/2008	146-2008
6-1.1-12-27.1	Amended	29	01/01/2008	144-2008
6-1.1-12-28.5	Amended	112	07/01/2008	146-2008
6-1.1-12-30	Amended	30	01/01/2008	144-2008
6-1.1-12-30	Amended	113	07/01/2008	146-2008
6-1.1-12-31	Amended	31	01/01/2008	144-2008
6-1.1-12-33	Amended	32	01/01/2008	144-2008
6-1.1-12-34	Amended	33	01/01/2008	144-2008
6-1.1-12-34.5	Amended	34	01/01/2008	144-2008
6-1.1-12-35.5	Amended	35	01/01/2008	144-2008
6-1.1-12-35.5	Amended	114	07/01/2008	146-2008
6-1.1-12-37	Amended	115	01/01/2009	146-2008
6-1.1-12-37.5	New	116	01/01/2009	146-2008
6-1.1-12-38	Amended	36	01/01/2008	144-2008
6-1.1-12-38	Amended	22	07/01/2008	2-2008
6-1.1-12-38	Amended	117	07/01/2008	146-2008
6-1.1-12-41	Amended	118	07/01/2008	146-2008
6-1.1-12-42	Amended	119	07/01/2008	146-2008
6-1.1-12-43	Amended	120	01/01/2009	146-2008
6-1.1-12-43	Amended	9	03/24/2008	145-2008
6-1.1-12-44	New	37	01/01/2008	144-2008
6-1.1-12-45	New	38	01/01/2008	144-2008
6-1.1-12.1-2	Amended	121	07/01/2008	146-2008
6-1.1-12.1-4.5	Amended	36	03/13/2008	3-2008
6-1.1-12.1-4.5	Amended	122	03/19/2008	146-2008
6-1.1-12.1-4.7	Amended	123	01/01/2008	146-2008
6-1.1-12.1-5	Amended	124	07/01/2008	146-2008
6-1.1-12.1-5.3	Amended	125	07/01/2008	146-2008
6-1.1-12.1-5.4	Amended	126	07/01/2008	146-2008
6-1.1-12.1-5.8	Amended	127	07/01/2008	146-2008
6-1.1-12.1-5.9	Amended	37	03/13/2008	3-2008
6-1.1-12.1-5.9	Amended	128	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-12.4-1	Amended	129	07/01/2008	146-2008
6-1.1-12.4-2	Amended	130	07/01/2008	146-2008
6-1.1-12.4-2	Amended	38	03/13/2008	3-2008
6-1.1-12.4-3	Amended	39	03/13/2008	3-2008
6-1.1-12.4-3	Amended	131	07/01/2008	146-2008
6-1.1-12.4-9	Amended	40	03/13/2008	3-2008
6-1.1-12.4-9	Amended	132	07/01/2008	146-2008
6-1.1-12.6	New	1	01/01/2009	70-2008
6-1.1-13-2	Amended	133	07/01/2008	146-2008
6-1.1-14-7	Amended	134	07/01/2008	146-2008
6-1.1-14-8	Amended	135	07/01/2008	146-2008
6-1.1-14-9	Amended	136	01/01/2008	146-2008
6-1.1-15-1	Amended	1	11/21/2007	1-2008
6-1.1-15-1	Amended	137	07/01/2008	146-2008
6-1.1-15-3	Amended	2	11/21/2007	1-2008
6-1.1-15-9	Amended	138	07/01/2008	146-2008
6-1.1-15-10	Amended	139	03/19/2008	146-2008
6-1.1-15-12	Amended	140	07/01/2008	146-2008
6-1.1-15-12.5	New	141	01/01/2008	146-2008
6-1.1-15-14	Amended	142	07/01/2008	146-2008
6-1.1-15-16	Amended	143	07/01/2008	146-2008
6-1.1-16-1	Amended	144	07/01/2008	146-2008
6-1.1-16-2	Amended	145	07/01/2008	146-2008
6-1.1-17-0.5	Amended	39	03/24/2008	144-2008
6-1.1-17-1	Amended	146	07/01/2008	146-2008
6-1.1-17-3	Amended	41	03/13/2008	3-2008
6-1.1-17-3	Amended	147	03/19/2008	146-2008
6-1.1-17-3.5	New	148	07/01/2008	146-2008
6-1.1-17-5	Amended	42	03/13/2008	3-2008
6-1.1-17-5	Amended	149	03/19/2008	146-2008
6-1.1-17-5.6	Amended	43	03/13/2008	3-2008
6-1.1-17-5.6	Amended	150	03/19/2008	146-2008
6-1.1-17-6	Amended	151	03/19/2008	146-2008
6-1.1-17-7	Amended	152	03/19/2008	146-2008
6-1.1-17-8	Amended	153	03/19/2008	146-2008
6-1.1-17-9	Amended	154	03/19/2008	146-2008
6-1.1-17-10	Amended	155	03/19/2008	146-2008
6-1.1-17-11	Amended	156	03/19/2008	146-2008
6-1.1-17-12	Amended	157	03/19/2008	146-2008
6-1.1-17-14	Amended	158	03/19/2008	146-2008
6-1.1-17-15	Amended	159	03/19/2008	146-2008
6-1.1-17-16	Amended	160	01/01/2009	146-2008
6-1.1-17-17	Amended	161	01/01/2009	146-2008
6-1.1-17-19	Amended	162	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-17-20	Amended	163	03/19/2008	146-2008
6-1.1-17-20.5	New	164	07/01/2008	146-2008
6-1.1-18-2	Amended	165	07/01/2008	146-2008
6-1.1-18-3	Amended	166	03/19/2008	146-2008
6-1.1-18-11	Amended	167	01/01/2009	146-2008
6-1.1-18-12	Amended	23	07/01/2008	2-2008
6-1.1-18-12	Amended	168	07/01/2008	146-2008
6-1.1-18.5-2	Amended	3	11/21/2007	1-2008
6-1.1-18.5-3	Amended	169	01/01/2009	146-2008
6-1.1-18.5-6	Amended	44	03/13/2008	3-2008
6-1.1-18.5-7	Amended	170	03/19/2008	146-2008
6-1.1-18.5-8	Amended	171	03/19/2008	146-2008
6-1.1-18.5-9.7	Amended	172	01/01/2009	146-2008
6-1.1-18.5-9.9	Amended	173	01/01/2008	146-2008
6-1.1-18.5-10	Amended	174	01/01/2009	146-2008
6-1.1-18.5-10.1	Amended	175	01/01/2009	146-2008
6-1.1-18.5-10.3	Amended	176	01/01/2009	146-2008
6-1.1-18.5-10.5	Amended	177	01/01/2009	146-2008
6-1.1-18.5-11	Amended	178	03/19/2008	146-2008
6-1.1-18.5-12	Amended	179	01/01/2009	146-2008
6-1.1-18.5-12	Amended	45	03/13/2008	3-2008
6-1.1-18.5-13	Amended	180	03/19/2008	146-2008
6-1.1-18.5-13	Amended	46	03/13/2008	3-2008
6-1.1-18.5-13.6	Amended	181	07/01/2008	146-2008
6-1.1-18.5-14	Amended	182	03/19/2008	146-2008
6-1.1-18.5-15	Amended	183	03/19/2008	146-2008
6-1.1-18.5-16	Amended	184	03/19/2008	146-2008
6-1.1-19-1	Amended	185	01/01/2009	146-2008
6-1.1-19-3	Amended	186	01/01/2009	146-2008
6-1.1-19-13	Repealed	810	01/01/2009	146-2008
6-1.1-20-1	Amended	187	07/01/2008	146-2008
6-1.1-20-1.1	Amended	188	07/01/2008	146-2008
6-1.1-20-1.3	Amended	189	07/01/2008	146-2008
6-1.1-20-1.9	Amended	190	07/01/2008	146-2008
6-1.1-20-3.1	Amended	191	07/01/2008	146-2008
6-1.1-20-3.2	Amended	192	07/01/2008	146-2008
6-1.1-20-3.2	Amended	47	03/13/2008	3-2008
6-1.1-20-3.4	Repealed	801	03/19/2008	146-2008
6-1.1-20-3.5	New	193	07/01/2008	146-2008
6-1.1-20-3.6	New	194	07/01/2008	146-2008
6-1.1-20-5	Amended	195	07/01/2008	146-2008
6-1.1-20-7	Amended	196	07/01/2008	146-2008
6-1.1-20-7.5	New	197	03/19/2008	146-2008
6-1.1-20-9	Amended	198	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-20-10	Amended	199	07/01/2008	146-2008
6-1.1-20-10.1	New	200	07/01/2008	146-2008
6-1.1-20.3-1	Amended	201	03/19/2008	146-2008
6-1.1-20.3-2	Amended	202	03/19/2008	146-2008
6-1.1-20.3-4	Amended	203	03/19/2008	146-2008
6-1.1-20.3-5	Amended	204	03/19/2008	146-2008
6-1.1-20.3-6	Amended	205	03/19/2008	146-2008
6-1.1-20.3-7	Amended	206	03/19/2008	146-2008
6-1.1-20.3-8	Amended	207	03/19/2008	146-2008
6-1.1-20.3-9	New	208	03/19/2008	146-2008
6-1.1-20.3-10	New	209	03/19/2008	146-2008
6-1.1-20.3-11	New	210	03/19/2008	146-2008
6-1.1-20.3-12	New	211	07/01/2008	146-2008
6-1.1-20.4-4	Amended	212	01/01/2009	146-2008
6-1.1-20.6-0.5	New	213	01/01/2009	146-2008
6-1.1-20.6-1	Repealed	811	01/01/2009	146-2008
6-1.1-20.6-1.6	New	214	01/01/2009	146-2008
6-1.1-20.6-2	Amended	215	01/01/2009	146-2008
6-1.1-20.6-2.3	New	216	01/01/2009	146-2008
6-1.1-20.6-2.4	New	217	01/01/2009	146-2008
6-1.1-20.6-2.5	New	218	01/01/2009	146-2008
6-1.1-20.6-3	Amended	219	03/19/2008	146-2008
6-1.1-20.6-3.5	New	220	03/19/2008	146-2008
6-1.1-20.6-4	Amended	4	01/01/2009	131-2008
6-1.1-20.6-4	Amended	221	01/01/2009	146-2008
6-1.1-20.6-5	Repealed	811	01/01/2009	146-2008
6-1.1-20.6-6	Repealed	811	01/01/2009	146-2008
6-1.1-20.6-6.5	Repealed	811	01/01/2009	146-2008
6-1.1-20.6-7	Amended	222	01/01/2008	146-2008
6-1.1-20.6-7.5	New	223	01/01/2009	146-2008
6-1.1-20.6-8	Amended	224	03/19/2008	146-2008
6-1.1-20.6-8.5	New	225	03/19/2008	146-2008
6-1.1-20.6-9	Repealed	810	01/01/2009	146-2008
6-1.1-20.6-10	New	226	07/01/2008	146-2008
6-1.1-20.6-11	New	227	07/01/2008	146-2008
6-1.1-20.6-12	New	228	07/01/2008	146-2008
6-1.1-20.7	Repealed	800	01/01/2008	146-2008
6-1.1-20.8	Repealed	800	01/01/2008	146-2008
6-1.1-20.9	Repealed	813	01/01/2009	146-2008
6-1.1-20.9-1	Amended	229	03/19/2008	146-2008
6-1.1-20.9-2	Amended	40	01/01/2008	144-2008
6-1.1-20.9-2	Amended	3	03/21/2008	101-2008
6-1.1-20.9-3	Amended	41	01/01/2008	144-2008
6-1.1-20.9-3.5	New	42	01/01/2008	144-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-20.9-4	Amended	43	01/01/2008	144-2008
6-1.1-20.9-5	Amended	44	01/01/2008	144-2008
6-1.1-20.9-7	New	45	01/01/2008	144-2008
6-1.1-21	Repealed	813	01/01/2009	146-2008
6-1.1-21-2	Amended	48	03/13/2008	3-2008
6-1.1-21-2.5	Amended	49	03/13/2008	3-2008
6-1.1-21-4	Amended	230	07/01/2008	146-2008
6-1.1-21-4	Amended	46	03/24/2008	144-2008
6-1.1-21-4	Amended	50	03/13/2008	3-2008
6-1.1-21-5	Amended	51	03/13/2008	3-2008
6-1.1-21-9	Amended	52	03/13/2008	3-2008
6-1.1-21.2-1	Repealed	803	01/01/2009	146-2008
6-1.1-21.2-3	Amended	231	01/01/2009	146-2008
6-1.1-21.2-4	Amended	232	01/01/2009	146-2008
6-1.1-21.2-5	Amended	233	01/01/2009	146-2008
6-1.1-21.2-6	Amended	234	01/01/2009	146-2008
6-1.1-21.2-6.6	New	235	01/01/2009	146-2008
6-1.1-21.2-7	Amended	236	01/01/2009	146-2008
6-1.1-21.2-8	Amended	237	01/01/2009	146-2008
6-1.1-21.2-11	Amended	238	01/01/2009	146-2008
6-1.1-21.2-12	Amended	239	01/01/2009	146-2008
6-1.1-21.2-13	Repealed	803	01/01/2009	146-2008
6-1.1-21.2-14	Repealed	803	01/01/2009	146-2008
6-1.1-21.2-15	Amended	240	01/01/2009	146-2008
6-1.1-21.2-16	New	241	01/01/2009	146-2008
6-1.1-21.4	New	5	03/24/2008	131-2008
6-1.1-21.5-5	Amended	242	01/01/2009	146-2008
6-1.1-21.5-6	Amended	243	01/01/2009	146-2008
6-1.1-21.7	Repealed	810	01/01/2009	146-2008
6-1.1-21.8-4	Amended	244	01/01/2009	146-2008
6-1.1-21.8-5	Amended	245	01/01/2009	146-2008
6-1.1-21.8-6	Amended	246	01/01/2009	146-2008
6-1.1-21.9-3	Amended	247	03/19/2008	146-2008
6-1.1-21.9-3	Amended	6	01/01/2008	131-2008
6-1.1-21.9-4	Amended	248	01/01/2009	146-2008
6-1.1-22-3	Amended	249	01/01/2009	146-2008
6-1.1-22-5	Amended	250	01/01/2009	146-2008
6-1.1-22-8	Repealed	269	03/13/2008	3-2008
6-1.1-22-8.1	Amended	53	03/13/2008	3-2008
6-1.1-22-8.1	Amended	251	03/19/2008	146-2008
6-1.1-22-8.3	Amended	54	03/13/2008	3-2008
6-1.1-22-8.5	Amended	55	03/13/2008	3-2008
6-1.1-22-9	Amended	56	03/13/2008	3-2008
6-1.1-22-9	Amended	252	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-22-9.5	Amended	253	01/01/2009	146-2008
6-1.1-22-9.5	Amended	57	03/13/2008	3-2008
6-1.1-22-9.7	New	1	07/01/2008	118-2008
6-1.1-22.5-6	Amended	2	07/01/2008	118-2008
6-1.1-22.5-12	Amended	254	03/19/2008	146-2008
6-1.1-22.5-18	Amended	255	03/19/2008	146-2008
6-1.1-22.5-18.5	New	256	03/19/2008	146-2008
6-1.1-23-1	Amended	257	07/01/2008	146-2008
6-1.1-24-2	Amended	258	07/01/2008	146-2008
6-1.1-25-4.1	Amended	259	07/01/2008	146-2008
6-1.1-29-1.5	Repealed	801	03/19/2008	146-2008
6-1.1-29-2	Amended	260	03/19/2008	146-2008
6-1.1-29-2.5	Repealed	801	03/19/2008	146-2008
6-1.1-29-3	Amended	261	03/19/2008	146-2008
6-1.1-29-4	Amended	262	03/19/2008	146-2008
6-1.1-29-5	Amended	263	03/19/2008	146-2008
6-1.1-29-6	Amended	264	03/19/2008	146-2008
6-1.1-29-7	Amended	265	03/19/2008	146-2008
6-1.1-29-8	Amended	266	03/19/2008	146-2008
6-1.1-29-9	Amended	267	03/19/2008	146-2008
6-1.1-29.5	Repealed	801	03/19/2008	146-2008
6-1.1-30-17	New	268	01/01/2009	146-2008
6-1.1-31-1	Amended	269	03/19/2008	146-2008
6-1.1-31-4	Amended	270	03/19/2008	146-2008
6-1.1-31-5	Amended	271	07/01/2008	146-2008
6-1.1-31.5-2	Amended	272	07/01/2008	146-2008
6-1.1-31.5-3.5	Amended	273	07/01/2008	146-2008
6-1.1-31.7-1	Amended	274	07/01/2008	146-2008
6-1.1-31.7-3	Amended	275	07/01/2008	146-2008
6-1.1-33.5-8	New	276	03/19/2008	146-2008
6-1.1-33.5-9	New	277	03/19/2008	146-2008
6-1.1-35-1	Amended	278	07/01/2008	146-2008
6-1.1-35-9	Amended	279	07/01/2008	146-2008
6-1.1-35-11	Amended	280	07/01/2008	146-2008
6-1.1-35.2-1	Repealed	802	07/01/2008	146-2008
6-1.1-35.2-2	Amended	281	07/01/2008	146-2008
6-1.1-35.2-3	Amended	282	07/01/2008	146-2008
6-1.1-35.2-5	Amended	283	07/01/2008	146-2008
6-1.1-35.5-7	Amended	284	07/01/2008	146-2008
6-1.1-35.5-9	Repealed	802	07/01/2008	146-2008
6-1.1-36-3	Amended	285	07/01/2008	146-2008
6-1.1-36-4	Amended	286	07/01/2008	146-2008
6-1.1-36-5	Amended	287	07/01/2008	146-2008
6-1.1-36-7	Amended	288	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-36-12	Amended	289	07/01/2008	146-2008
6-1.1-36-13	Amended	290	07/01/2008	146-2008
6-1.1-37-2	Amended	291	07/01/2008	146-2008
6-1.1-37-7	Amended	292	07/01/2008	146-2008
6-1.1-37-7.5	Amended	293	07/01/2008	146-2008
6-1.1-37-8	Amended	294	07/01/2008	146-2008
6-1.1-37-10	Amended	58	03/13/2008	3-2008
6-1.1-37-10.7	Amended	295	07/01/2008	146-2008
6-1.1-39-5	Amended	296	01/01/2009	146-2008
6-1.1-39-6	Amended	297	01/01/2009	146-2008
6-1.1-39-9	Amended	298	07/01/2008	146-2008
6-1.1-40-1	Amended	6	07/01/2008	98-2008
6-1.1-40-2	Amended	7	07/01/2008	98-2008
6-1.1-40-3	Repealed	800	01/01/2008	146-2008
6-1.1-40-9	Amended	299	01/01/2008	146-2008
6-1.1-40-10	Amended	300	01/01/2008	146-2008
6-1.1-40-11	Amended	301	01/01/2008	146-2008
6-1.1-42-17	Amended	302	01/01/2008	146-2008
6-1.1-42-27	Amended	303	07/01/2008	146-2008
6-1.1-42-30	Amended	59	03/13/2008	3-2008
6-1.1-45-9	Amended	304	07/01/2008	146-2008
6-1.1-45.5-3	Amended	305	07/01/2008	146-2008
6-1.1-45.5-4	Amended	306	07/01/2008	146-2008
6-1.1-45.5-8	Amended	307	07/01/2008	146-2008
6-1.5-5-2	Amended	308	07/01/2008	146-2008
6-1.5-5-5	Amended	309	07/01/2008	146-2008
6-2.3-3-5	Amended	7	03/24/2008	131-2008
6-2.5-1-16.2	New	1	01/01/2009	19-2008
6-2.5-1-16.3	New	2	01/01/2009	19-2008
6-2.5-1-16.4	New	3	01/01/2009	19-2008
6-2.5-1-18	Amended	4	03/03/2008	19-2008
6-2.5-1-26.5	New	5	01/01/2009	19-2008
6-2.5-2-2	Amended	310	04/01/2008	146-2008
6-2.5-4-16	New	8	07/01/2008	131-2008
6-2.5-4-16	New	6	01/01/2009	19-2008
6-2.5-5-41	Amended	9	07/01/2008	131-2008
6-2.5-5-41	Amended	1	07/01/2008	235-2007
6-2.5-5-43	New	14	07/01/2008	95-2008
6-2.5-6-1	Amended	10	01/01/2009	131-2008
6-2.5-6-7	Amended	311	04/01/2008	146-2008
6-2.5-6-8	Amended	312	04/01/2008	146-2008
6-2.5-6-10	Amended	313	04/01/2008	146-2008
6-2.5-7-3	Amended	314	04/01/2008	146-2008
6-2.5-7-5	Amended	315	04/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-2.5-7-5.5	Amended	24	07/01/2008	2-2008
6-2.5-8-1	Amended	316	07/01/2008	146-2008
6-2.5-10-1	Amended	317	05/01/2008	146-2008
6-2.5-13-1	Amended	7	01/01/2008	19-2008
6-3-1-3.5	Amended	11	01/01/2008	131-2008
6-3-1-3.5	Amended	60	03/13/2008	3-2008
6-3-1-11	Amended	12	01/01/2008	131-2008
6-3-2-6	Amended	318	01/01/2008	146-2008
6-3-2-13	Amended	8	07/01/2008	98-2008
6-3-3-12	Amended	13	01/01/2008	131-2008
6-3-4-1.5	Amended	14	01/01/2009	131-2008
6-3-4-4.1	Amended	319	01/01/2009	146-2008
6-3-4-4.1	Amended	15	01/01/2009	131-2008
6-3-4-8	Amended	16	01/01/2009	131-2008
6-3-4-15.7	Amended	320	01/01/2009	146-2008
6-3-4-16	New	321	07/01/2008	146-2008
6-3-4-17	New	322	07/01/2008	146-2008
6-3-7-3	Amended	323	01/01/2009	146-2008
6-3.1-11-19	Amended	324	01/01/2008	146-2008
6-3.1-21-6	Amended	17	01/01/2009	131-2008
6-3.1-21-6	Amended	325	01/01/2009	146-2008
6-3.1-21-10	Repealed	817	07/01/2008	146-2008
6-3.1-29-19	Amended	1	01/01/2008	52-2008
6-3.1-32	New	2	07/01/2008	235-2007
6-3.1-32-9	Amended	18	07/01/2008	131-2008
6-3.1-32-11	Amended	19	07/01/2008	131-2008
6-3.1-32-13	Amended	20	07/01/2008	131-2008
6-3.5-1.1-1	Amended	326	01/01/2009	146-2008
6-3.5-1.1-9	Amended	327	07/01/2008	146-2008
6-3.5-1.1-14	Amended	328	01/01/2009	146-2008
6-3.5-1.1-15	Amended	329	01/01/2009	146-2008
6-3.5-1.1-18	Amended	330	01/01/2009	146-2008
6-3.5-1.1-24	Amended	331	03/19/2008	146-2008
6-3.5-1.1-25	Amended	332	07/01/2008	146-2008
6-3.5-1.1-26	Amended	333	03/19/2008	146-2008
6-3.5-1.5-1	Amended	334	03/19/2008	146-2008
6-3.5-1.5-1	Amended	4	11/21/2007	1-2008
6-3.5-4-7.4	Amended	61	03/13/2008	3-2008
6-3.5-6-1	Amended	335	01/01/2009	146-2008
6-3.5-6-1.1	Amended	336	01/01/2009	146-2008
6-3.5-6-13	Amended	337	01/01/2009	146-2008
6-3.5-6-17	Amended	338	07/01/2008	146-2008
6-3.5-6-18.5	Amended	339	01/01/2009	146-2008
6-3.5-6-22	Amended	340	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-3.5-6-30	Amended	341	01/01/2009	146-2008
6-3.5-6-31	Amended	342	07/01/2008	146-2008
6-3.5-6-32	Amended	343	03/19/2008	146-2008
6-3.5-7-5	Amended	62	03/13/2008	3-2008
6-3.5-7-5	Amended	344	01/01/2008	146-2008
6-3.5-7-11	Amended	345	07/01/2008	146-2008
6-3.5-7-12	Amended	346	01/01/2009	146-2008
6-3.5-7-13.1	Amended	347	01/01/2009	146-2008
6-3.5-7-18	Amended	348	01/01/2009	146-2008
6-3.5-7-23	Amended	349	01/01/2009	146-2008
6-3.5-7-26	Amended	350	01/01/2008	146-2008
6-3.5-8	Repealed	804	03/19/2008	146-2008
6-5.5-8-2	Amended	351	01/01/2009	146-2008
6-6-5-2	Amended	352	01/01/2008	146-2008
6-6-5-6	Amended	63	03/13/2008	3-2008
6-6-5-7	Repealed	269	03/13/2008	3-2008
6-6-5-7.2	Amended	64	03/13/2008	3-2008
6-6-5-7.4	Amended	65	03/13/2008	3-2008
6-6-5-9	Amended	21	03/24/2008	131-2008
6-6-5-9	Amended	3	03/21/2008	107-2008
6-6-5-10	Amended	353	01/01/2009	146-2008
6-6-5.1	New	22	01/01/2009	131-2008
6-6-5.5-20	Amended	354	01/01/2009	146-2008
6-6-6.5-21	Amended	355	01/01/2009	146-2008
6-6-10-7	Amended	1	03/13/2008	57-2008
6-6-11-9	Amended	356	01/01/2008	146-2008
6-6-11-31	Amended	357	01/01/2009	146-2008
6-7-1-17	Amended	23	07/01/2008	131-2008
6-7-1-28.1	Amended	66	03/13/2008	3-2008
6-8-12-1	Amended	24	07/01/2008	131-2008
6-8-12-2	Amended	25	07/01/2008	131-2008
6-8-12-3	Amended	26	07/01/2008	131-2008
6-8.1-1-1	Amended	27	01/01/2009	131-2008
6-8.1-1-1	Amended	15	07/01/2008	95-2008
6-8.1-1-1	Amended	358	01/01/2009	146-2008
6-8.1-5-2	Amended	28	01/01/2009	131-2008
6-8.1-7-1	Amended	29	01/01/2009	131-2008
6-8.1-7-1	Amended	359	07/01/2008	146-2008
6-8.1-8-3	Amended	1	01/01/2009	40-2008
6-8.1-8-8.7	Amended	1	03/15/2008	138-2008
6-8.1-9-1	Amended	30	01/01/2009	131-2008
6-8.1-10-3.5	New	31	01/01/2009	131-2008
6-8.1-10-4	Amended	32	01/01/2009	131-2008
6-8.1-10-5	Amended	33	07/01/2008	131-2008

Affected Provisions	Type	SEC.	Effective	P.L.
6-9-7-3	Amended	1	07/01/2008	96-2008
6-9-7-7	Amended	2	07/01/2008	96-2008
6-9-39-5	Amended	67	03/13/2008	3-2008
6-9-40	New	3	03/19/2008	96-2008

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7.1-1-3-5.5	New	2	07/01/2008	94-2008
7.1-1-3-18.5	New	3	07/01/2008	94-2008
7.1-2-2-8	Amended	4	07/01/2008	94-2008
7.1-2-3-10	Amended	5	07/01/2008	94-2008
7.1-2-4-13.5	New	6	07/01/2008	94-2008
7.1-2-4-22	New	7	07/01/2008	94-2008
7.1-2-5-1	Amended	8	07/01/2008	94-2008
7.1-2-5-4	Amended	9	07/01/2008	94-2008
7.1-2-5-5	Amended	10	07/01/2008	94-2008
7.1-2-5-6	Amended	11	07/01/2008	94-2008
7.1-2-5-7	Amended	12	07/01/2008	94-2008
7.1-2-5-8	Amended	68	03/13/2008	3-2008
7.1-2-5-8	Amended	13	07/01/2008	94-2008
7.1-3-1-23.5	New	1	07/01/2008	54-2008
7.1-3-1.5-4.3	New	14	07/01/2008	94-2008
7.1-3-1.5-4.5	New	15	07/01/2008	94-2008
7.1-3-1.5-4.6	Amended	16	07/01/2008	94-2008
7.1-3-1.5-4.8	Amended	17	07/01/2008	94-2008
7.1-3-1.5-5.5	New	18	07/01/2008	94-2008
7.1-3-1.5-6	Amended	19	07/01/2008	94-2008
7.1-3-1.5-12	Amended	20	07/01/2008	94-2008
7.1-3-1.5-13	Amended	21	07/01/2008	94-2008
7.1-3-1.5-14	Amended	22	07/01/2008	94-2008
7.1-3-1.5-14.5	New	23	07/01/2008	94-2008
7.1-3-1.5-15	Amended	24	07/01/2008	94-2008
7.1-3-1.5-15.5	New	25	07/01/2008	94-2008
7.1-3-2-7	Amended	26	07/01/2008	94-2008
7.1-3-3-4	Amended	27	07/01/2008	94-2008
7.1-3-3-5	Amended	28	07/01/2008	94-2008
7.1-3-5-4	New	29	07/01/2008	94-2008
7.1-3-5-5	New	30	07/01/2008	94-2008
7.1-3-8-3	Amended	31	07/01/2008	94-2008
7.1-3-9-11	Amended	32	07/01/2008	94-2008
7.1-3-10-13	Amended	33	07/01/2008	94-2008
7.1-3-12-4	Amended	2	07/01/2008	54-2008
7.1-3-13-3.5	New	34	07/01/2008	94-2008
7.1-3-17.5-1	Amended	35	07/01/2008	94-2008

Affected Provisions	Type	SEC.	Effective	P.L.
7.1-3-17.5-6	Amended	36	07/01/2008	94-2008
7.1-3-18.5-2	Amended	37	07/01/2008	94-2008
7.1-3-18.5-2.6	New	38	07/01/2008	94-2008
7.1-3-18.5-5	Amended	39	07/01/2008	94-2008
7.1-3-18.5-6	Amended	40	07/01/2008	94-2008
7.1-3-18.5-8	New	41	07/01/2008	94-2008
7.1-3-18.5-9	New	42	07/01/2008	94-2008
7.1-3-18.5-10	New	43	07/01/2008	94-2008
7.1-3-19-5	Amended	44	07/01/2008	94-2008
7.1-3-19-11.5	New	45	07/01/2008	94-2008
7.1-3-22-4	Amended	46	07/01/2008	94-2008
7.1-3-23-2	Amended	69	03/13/2008	3-2008
7.1-3-26-7	Amended	3	07/01/2008	54-2008
7.1-4-4.1-3	Amended	47	07/01/2008	94-2008
7.1-5-5-9	Amended	48	07/01/2008	94-2008
7.1-5-7-1	Amended	49	07/01/2008	94-2008
7.1-5-7-8	Amended	50	07/01/2008	94-2008
7.1-5-7-13	Amended	70	03/13/2008	3-2008
7.1-5-7-13	Amended	51	07/01/2008	94-2008
7.1-5-7-16	New	52	07/01/2008	94-2008
7.1-5-7-17	New	53	07/01/2008	94-2008
7.1-5-8-4	Amended	54	07/01/2008	94-2008
7.1-5-8-5	Amended	55	07/01/2008	94-2008
7.1-5-8-6	Amended	56	07/01/2008	94-2008
7.1-5-9-14	Amended	57	07/01/2008	94-2008
7.1-5-10-1	Amended	58	07/01/2008	94-2008
7.1-5-10-13	Amended	360	03/19/2008	146-2008

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8-1-2-1.2	New	1	07/01/2008	103-2008
8-1-2-42.1	Amended	2	01/01/2008	52-2008
8-1-17-18	Repealed	269	03/13/2008	3-2008
8-1-17-18.1	New	71	03/13/2008	3-2008
8-1-17-18.2	New	72	07/01/2009	3-2008
8-1.5-2-4	Amended	2	03/21/2008	103-2008
8-1.5-2-5	Amended	3	03/21/2008	103-2008
8-1.5-2-6	Amended	4	03/21/2008	103-2008
8-1.5-2-19	Amended	5	03/21/2008	103-2008
8-1.5-2-19.5	Amended	6	03/21/2008	103-2008
8-1.5-5-7	Amended	3	03/24/2008	114-2008
8-3-1-21.1	Amended	73	03/13/2008	3-2008
8-3-1-21.3	Amended	74	03/13/2008	3-2008
8-3-7-1	Amended	25	07/01/2008	2-2008

Affected Provisions	Type	SEC.	Effective	P.L.
8-6-3-1	Amended	361	01/01/2009	146-2008
8-10-1-1	Amended	9	07/01/2008	98-2008
8-10-1-2	Amended	10	07/01/2008	98-2008
8-10-1-3	Amended	11	07/01/2008	98-2008
8-10-1-4	Amended	12	07/01/2008	98-2008
8-10-1-4.5	Amended	13	07/01/2008	98-2008
8-10-1-5	Amended	14	07/01/2008	98-2008
8-10-1-7	Amended	15	07/01/2008	98-2008
8-10-1-7.1	Amended	16	07/01/2008	98-2008
8-10-1-7.5	Amended	17	07/01/2008	98-2008
8-10-1-8	Amended	18	07/01/2008	98-2008
8-10-1-9	Amended	19	07/01/2008	98-2008
8-10-1-10	Amended	20	07/01/2008	98-2008
8-10-1-11	Amended	21	07/01/2008	98-2008
8-10-1-12	Amended	22	07/01/2008	98-2008
8-10-1-13	Amended	23	07/01/2008	98-2008
8-10-1-14	Amended	24	07/01/2008	98-2008
8-10-1-15	Amended	25	07/01/2008	98-2008
8-10-1-16	Amended	26	07/01/2008	98-2008
8-10-1-17	Amended	27	07/01/2008	98-2008
8-10-1-18	Amended	28	07/01/2008	98-2008
8-10-1-19	Amended	29	07/01/2008	98-2008
8-10-1-20	Amended	30	07/01/2008	98-2008
8-10-1-21	Amended	31	07/01/2008	98-2008
8-10-1-22	Amended	32	07/01/2008	98-2008
8-10-1-23	Amended	33	07/01/2008	98-2008
8-10-1-25	Amended	34	07/01/2008	98-2008
8-10-1-26	Amended	35	07/01/2008	98-2008
8-10-1-27	Amended	36	07/01/2008	98-2008
8-10-1-29	Amended	37	07/01/2008	98-2008
8-10-1-30	Amended	38	07/01/2008	98-2008
8-10-2-1	Amended	39	07/01/2008	98-2008
8-10-2-2	Amended	40	07/01/2008	98-2008
8-10-2-3	Amended	41	07/01/2008	98-2008
8-10-3-1	Amended	42	07/01/2008	98-2008
8-10-3-2	Amended	43	07/01/2008	98-2008
8-10-3-3	Amended	44	07/01/2008	98-2008
8-10-4-1	Amended	45	07/01/2008	98-2008
8-10-4-2	Amended	46	07/01/2008	98-2008
8-10-4-3	Amended	47	07/01/2008	98-2008
8-10-4-4	Amended	48	07/01/2008	98-2008
8-10-4-5	Amended	49	07/01/2008	98-2008
8-14-9-12	Amended	362	07/01/2008	146-2008
8-15.7-8-5	Amended	50	07/01/2008	98-2008

Affected Provisions	Type	SEC.	Effective	P.L.
8-18-21-13	Amended	363	03/19/2008	146-2008
8-21-1-10.1	Amended	26	07/01/2008	2-2008
8-22-3-16	Amended	364	07/01/2008	146-2008
8-22-3.5-9	Amended	365	07/01/2008	146-2008
8-22-3.5-10	Amended	75	03/13/2008	3-2008
8-22-3.5-10	Repealed	813	01/01/2009	146-2008
8-22-3.5-12	Repealed	813	01/01/2009	146-2008
8-22-3.5-14	Amended	366	01/01/2008	146-2008
8-22-3.6-3	Amended	367	03/19/2008	146-2008
8-23-2-12.5	New	1	03/12/2008	50-2008
8-23-5-9	New	1	07/01/2008	99-2008
8-23-7-26	Amended	2	07/01/2008	99-2008
8-23-7-27	Amended	3	07/01/2008	99-2008
8-23-7-28	Amended	4	07/01/2008	99-2008
8-23-9-4	Amended	2	07/01/2008	50-2008

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9-13-2-1.2	New	1	07/01/2008	83-2008
9-13-2-27.5	Amended	4	07/01/2008	107-2008
9-13-2-28	Amended	5	07/01/2008	107-2008
9-13-2-42	Amended	6	07/01/2008	107-2008
9-13-2-42	Amended	34	07/01/2008	131-2008
9-13-2-49.7	New	1	07/01/2008	126-2008
9-13-2-80	Amended	7	07/01/2008	107-2008
9-13-2-94.2	New	2	07/01/2008	83-2008
9-13-2-150.5	New	35	07/01/2008	131-2008
9-13-2-150.5	New	8	07/01/2008	107-2008
9-13-2-154.8	New	1	07/01/2008	35-2008
9-14-1-4	Amended	36	01/01/2009	131-2008
9-14-3-0.5	Amended	1	07/01/2008	110-2008
9-14-3-0.8	Amended	2	07/01/2008	110-2008
9-17-2-0.5	New	9	07/01/2008	107-2008
9-17-2-0.5	New	37	07/01/2008	131-2008
9-17-2-1	Amended	38	01/01/2009	131-2008
9-17-2-2	Amended	3	07/01/2008	83-2008
9-17-2-3	Amended	39	07/01/2008	131-2008
9-17-2-12	Amended	3	07/01/2008	106-2008
9-17-2-12	Amended	40	07/01/2008	131-2008
9-17-2-12	Amended	10	07/01/2008	107-2008
9-17-2-12.5	New	41	07/01/2008	131-2008
9-17-2-12.5	New	11	07/01/2008	107-2008
9-17-3-3	Amended	4	07/01/2008	106-2008
9-17-3-3	Amended	42	07/01/2008	131-2008

Affected Provisions	Type	SEC.	Effective	P.L.
9-17-3-3	Amended	4	07/01/2008	83-2008
9-17-3-3.1	Amended	43	07/01/2008	131-2008
9-17-3-3.2	New	44	07/01/2008	131-2008
9-17-3-7	Amended	45	07/01/2008	131-2008
9-17-3-9	New	5	07/01/2008	83-2008
9-18-2-1	Amended	46	01/01/2009	131-2008
9-18-2-1	Amended	76	03/13/2008	3-2008
9-18-2-7	Amended	1	07/01/2008	31-2008
9-18-2-8	Amended	12	07/01/2008	107-2008
9-18-2-8.5	New	2	07/01/2008	31-2008
9-18-12-5	Amended	6	07/01/2008	83-2008
9-18-15-1	Amended	1	03/03/2008	30-2008
9-18-25-1	Amended	2	03/03/2008	30-2008
9-18-26-1	Amended	5	07/01/2008	106-2008
9-18-26-2	Amended	6	07/01/2008	106-2008
9-18-26-3	Amended	7	07/01/2008	106-2008
9-18-26-4	Amended	8	07/01/2008	106-2008
9-18-26-7	Amended	9	07/01/2008	106-2008
9-18-26-10	Amended	10	07/01/2008	106-2008
9-18-26-12	Amended	11	07/01/2008	106-2008
9-18-26-14	Amended	12	07/01/2008	106-2008
9-18-26-15	Amended	13	07/01/2008	106-2008
9-18-26-16	Amended	14	07/01/2008	106-2008
9-18-26-17	Amended	15	07/01/2008	106-2008
9-18-26-18	Amended	16	07/01/2008	106-2008
9-18-44-1	Amended	4	07/01/2008	96-2008
9-18-44-4	Amended	5	07/01/2008	96-2008
9-18-52	New	3	03/03/2008	30-2008
9-19-18-3	Amended	2	07/01/2008	35-2008
9-20-6-2	Amended	77	03/13/2008	3-2008
9-20-11-1	Amended	27	07/01/2008	2-2008
9-21-2-1	Amended	1	07/01/2008	36-2008
9-21-2-3	Amended	2	07/01/2008	36-2008
9-21-4-5	Amended	59	07/01/2008	94-2008
9-21-6-3	Amended	78	03/13/2008	3-2008
9-22-1-11	Amended	47	07/01/2008	131-2008
9-22-1-12	Amended	48	07/01/2008	131-2008
9-22-3-19	Amended	17	07/01/2008	106-2008
9-22-4-1	Amended	18	07/01/2008	106-2008
9-22-4-2	Amended	19	07/01/2008	106-2008
9-22-4-3	Amended	20	07/01/2008	106-2008
9-22-4-5	Amended	21	07/01/2008	106-2008
9-22-4-6	Amended	22	07/01/2008	106-2008
9-22-4-7	Amended	23	07/01/2008	106-2008

Affected Provisions	Type	SEC.	Effective	P.L.
9-22-4-8	Amended	24	07/01/2008	106-2008
9-22-4-10	Amended	25	07/01/2008	106-2008
9-22-4-11	Amended	26	07/01/2008	106-2008
9-22-4-12	Amended	27	07/01/2008	106-2008
9-22-4-14	New	28	07/01/2008	106-2008
9-23-0.5-1	Repealed	21	07/01/2008	107-2008
9-23-0.5-1	Repealed	57	07/01/2008	131-2008
9-23-2-7	Amended	13	07/01/2008	107-2008
9-23-2-7	Amended	49	07/01/2008	131-2008
9-23-2-13	Amended	29	07/01/2008	106-2008
9-23-2-14	Amended	30	07/01/2008	106-2008
9-23-2-17	New	31	07/01/2008	106-2008
9-23-2-18	New	32	07/01/2008	106-2008
9-24-2-2.5	Amended	79	03/13/2008	3-2008
9-24-6-4.5	New	50	01/01/2008	131-2008
9-24-10-4	Amended	2	07/01/2008	126-2008
9-24-12-3	Amended	81	03/13/2008	3-2008
9-24-15-4	Amended	2	07/01/2008	127-2008
9-24-19-6	Amended	80	03/13/2008	3-2008
9-25-10	New	1	07/01/2008	77-2008
9-26-1-1	Amended	3	07/01/2008	126-2008
9-26-1-1.5	New	4	07/01/2008	126-2008
9-26-1-2	Amended	5	07/01/2008	126-2008
9-26-1-6	Amended	6	07/01/2008	126-2008
9-26-1-8	Amended	7	07/01/2008	126-2008
9-26-1-9	Amended	8	07/01/2008	126-2008
9-27-4-0.5	New	14	07/01/2008	107-2008
9-29-3-3	Amended	51	01/01/2009	131-2008
9-29-4-4	Amended	7	07/01/2008	83-2008
9-29-5-0.5	New	1	07/01/2008	97-2008
9-29-5-1	Amended	2	07/01/2008	97-2008
9-29-5-2	Amended	3	07/01/2008	97-2008
9-29-5-2	Amended	82	03/13/2008	3-2008
9-29-5-3	Amended	4	07/01/2008	97-2008
9-29-5-34.5	Amended	4	03/03/2008	30-2008
9-29-5-42	Amended	15	07/01/2008	107-2008
9-29-5-42	Amended	3	07/01/2008	31-2008
9-29-5-43	Amended	33	07/01/2008	106-2008
9-29-7-6	Amended	34	07/01/2008	106-2008
9-29-8-7	Amended	35	07/01/2008	106-2008
9-29-11.5	New	8	07/01/2008	83-2008
9-29-12-1	Amended	16	07/01/2008	107-2008
9-29-12-2	Amended	17	07/01/2008	107-2008
9-29-15-7	Amended	36	07/01/2008	106-2008

Affected Provisions	Type	SEC.	Effective	P.L.
9-29-15-8	Amended	37	07/01/2008	106-2008
9-30-5-3	Amended	9	07/01/2008	126-2008
9-30-5-10	Amended	10	07/01/2008	126-2008
9-31-2-4	Amended	9	07/01/2008	83-2008
9-31-2-6	Amended	10	07/01/2008	83-2008
9-31-2-16	Amended	11	07/01/2008	83-2008
9-31-2-30	New	12	07/01/2008	83-2008
9-31-3-5	Amended	38	07/01/2008	106-2008
9-31-3-6	Amended	39	07/01/2008	106-2008
9-31-3-19	Amended	40	07/01/2008	106-2008
9-31-4-3	Amended	41	07/01/2008	106-2008
9-31-4-4	Amended	42	07/01/2008	106-2008
9-31-4-5	Amended	43	07/01/2008	106-2008
9-31-4-6	Amended	44	07/01/2008	106-2008
9-31-4-8	Amended	45	07/01/2008	106-2008
9-31-4-9	Amended	46	07/01/2008	106-2008

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10-11-2-31	Amended	83	03/13/2008	3-2008
10-12-5-3	Amended	1	07/01/2007	5-2008
10-12-5-4	Amended	2	07/01/2007	5-2008
10-12-5-4	Amended	84	03/13/2008	3-2008
10-13-3-27	Amended	368	03/19/2008	146-2008
10-13-3-39	Amended	85	03/13/2008	3-2008
10-13-7	New	1	03/24/2008	137-2008
10-14-3-3	Amended	1	07/01/2008	134-2008
10-14-3-12	Amended	2	07/01/2008	134-2008
10-14-3.5	New	3	07/01/2008	134-2008
10-14-4-5	Amended	2	03/13/2008	57-2008
10-14-4-6	Amended	3	03/13/2008	57-2008
10-14-4-13	Amended	4	03/13/2008	57-2008
10-15-3-12	Amended	5	03/13/2008	57-2008
10-17-9-0.3	New	1	07/01/2008	21-2008
10-17-9-0.5	New	2	07/01/2008	21-2008
10-17-9-0.8	New	3	07/01/2008	21-2008
10-17-9-1	Amended	4	07/01/2008	21-2008
10-17-9-3.5	New	5	07/01/2008	21-2008
10-17-9-4	Amended	6	07/01/2008	21-2008
10-17-9-5	Amended	7	07/01/2008	21-2008
10-17-9-7	Amended	8	07/01/2008	21-2008
10-17-9-9	Amended	9	07/01/2008	21-2008
10-17-9-10	Amended	10	07/01/2008	21-2008
10-17-9-11	Amended	11	07/01/2008	21-2008

Affected Provisions	Type	SEC.	Effective	P.L.
10-17-9-15	Amended	12	07/01/2008	21-2008
10-17-9-17	New	13	07/01/2008	21-2008
10-17-9-18	New	14	07/01/2008	21-2008
10-17-9-19	New	15	07/01/2008	21-2008
10-17-9-20	New	16	07/01/2008	21-2008
10-17-12-8	Amended	86	03/13/2008	3-2008
10-18-8-1	Amended	1	07/01/2008	15-2008
10-18-9	New	1	07/01/2008	38-2008
10-19-8-2	Amended	4	07/01/2008	120-2008

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11-8-2-7	Amended	1	07/01/2008	47-2008
11-8-5-2	Amended	1	07/01/2008	81-2008
11-8-8-1.2	New	1	07/01/2008	119-2008
11-8-8-1.4	New	2	07/01/2008	119-2008
11-8-8-1.6	New	3	07/01/2008	119-2008
11-8-8-1.8	New	4	07/01/2008	119-2008
11-8-8-7	Amended	5	07/01/2008	119-2008
11-8-8-8	Amended	6	07/01/2008	119-2008
11-8-8-9	Amended	87	03/13/2008	3-2008
11-8-8-11	Amended	7	07/01/2008	119-2008
11-8-8-19	Amended	8	07/01/2008	119-2008
11-8-8-20	Amended	88	03/13/2008	3-2008
11-10-2-3	Repealed	808	01/01/2009	146-2008
11-10-7-5	Amended	369	03/19/2008	146-2008
11-10-8-6	Amended	370	03/19/2008	146-2008
11-10-11.5-11	Amended	89	03/13/2008	3-2008
11-10-12-6	New	9	07/01/2008	119-2008
11-11-2-1	Amended	2	07/01/2008	81-2008
11-11-2-4	Amended	3	07/01/2008	81-2008
11-11-2-6	New	4	07/01/2008	81-2008
11-12-2-2	Amended	371	03/19/2008	146-2008
11-12-2-9	Amended	372	01/01/2009	146-2008
11-12-5-3	Amended	373	03/19/2008	146-2008
11-13-3-4	Amended	1	07/01/2008	46-2008
11-13-3-4	Amended	10	07/01/2008	119-2008
11-13-3-5	Amended	2	07/01/2008	46-2008
11-13-6-5.5	Amended	374	03/19/2008	146-2008
11-13-9	New	11	07/01/2008	119-2008

Title 12

12-7-2-32	Amended	375	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
12-7-2-45	Amended	376	03/19/2008	146-2008
12-7-2-46	Amended	377	03/19/2008	146-2008
12-7-2-57.5	Amended	378	03/19/2008	146-2008
12-7-2-64	Amended	379	01/01/2009	146-2008
12-7-2-91	Amended	380	01/01/2009	146-2008
12-7-2-117	Repealed	804	03/19/2008	146-2008
12-7-2-118.3	New	4	07/01/2008	134-2008
12-7-2-124.6	New	381	03/19/2008	146-2008
12-7-2-124.8	New	382	03/19/2008	146-2008
12-7-2-132.5	New	5	07/01/2008	134-2008
12-7-2-134	Amended	1	07/01/2008	117-2008
12-7-2-135.6	New	1	07/01/2008	116-2008
12-7-2-140.5	Amended	90	03/13/2008	3-2008
12-7-2-142.7	New	6	07/01/2008	134-2008
12-7-2-144.3	Amended	91	03/13/2008	3-2008
12-7-2-192.7	Repealed	15	07/01/2008	143-2008
12-8-1-10	Amended	2	12/31/2007	113-2008
12-8-2-12	Amended	3	12/31/2007	113-2008
12-8-6-10	Amended	4	12/31/2007	113-2008
12-8-8-8	Amended	5	12/31/2007	113-2008
12-8-10-1	Amended	383	03/19/2008	146-2008
12-10-6-2.1	Amended	1	07/01/2008	121-2008
12-10-6-3	Amended	2	07/01/2008	121-2008
12-10-12-6	Amended	3	07/01/2008	121-2008
12-10-12-16	Amended	4	07/01/2008	121-2008
12-13-5-5	Amended	384	01/01/2009	146-2008
12-13-5-13	Repealed	15	07/01/2008	143-2008
12-13-7-17	Repealed	808	01/01/2009	146-2008
12-13-8	Repealed	806	01/01/2009	146-2008
12-13-9	Repealed	806	01/01/2009	146-2008
12-14-25-9	Amended	385	01/01/2009	146-2008
12-15-1.5-8	Amended	386	01/01/2009	146-2008
12-15-2-16	Amended	387	03/19/2008	146-2008
12-15-8-8	Amended	1	07/01/2008	236-2007
12-15-8.5-13	New	2	07/01/2008	236-2007
12-15-12-21	New	6	07/01/2008	113-2008
12-15-12-22	New	7	07/01/2008	113-2008
12-15-13-0.4	New	2	07/01/2008	117-2008
12-15-15-1.5	Amended	92	03/13/2008	3-2008
12-15-15-9.5	Amended	93	03/13/2008	3-2008
12-15-16-1	Amended	1	07/01/2008	123-2008
12-15-18-5.1	Amended	2	07/01/2008	123-2008
12-15-29-2	Amended	94	03/13/2008	3-2008
12-15-35-30	Amended	95	03/13/2008	3-2008

Affected Provisions	Type	SEC.	Effective	P.L.
12-15-35-31	Amended	96	03/13/2008	3-2008
12-15-44	Repealed	269	03/13/2008	3-2008
12-15-44.1	New	97	03/13/2008	3-2008
12-15-44.2	New	98	03/13/2008	3-2008
12-16-2.5-2	Repealed	819	01/01/2009	146-2008
12-16-4.5-1	Repealed	819	01/01/2009	146-2008
12-16-4.5-4	Repealed	819	01/01/2009	146-2008
12-16-5.5-1	Repealed	819	01/01/2009	146-2008
12-16-7.5-4.5	Amended	388	01/01/2009	146-2008
12-16-7.5-9	Repealed	819	01/01/2009	146-2008
12-16-7.5-10	Repealed	819	01/01/2009	146-2008
12-16-14-1	Repealed	819	01/01/2009	146-2008
12-16-14-2	Repealed	819	01/01/2009	146-2008
12-16-14-3	Repealed	819	01/01/2009	146-2008
12-16-14-4	Repealed	819	01/01/2009	146-2008
12-16-14-5	Repealed	819	01/01/2009	146-2008
12-16-14-6	Amended	389	01/01/2009	146-2008
12-16-14-7	Amended	390	01/01/2009	146-2008
12-16-15.5	Repealed	819	01/01/2009	146-2008
12-16-17	New	391	01/01/2009	146-2008
12-17.6-3-2	Amended	3	07/01/2008	117-2008
12-19-1-1	Amended	392	03/19/2008	146-2008
12-19-1-2	Amended	393	03/19/2008	146-2008
12-19-1-3	Amended	394	03/19/2008	146-2008
12-19-1-4	Amended	395	03/19/2008	146-2008
12-19-1-5	Amended	396	03/19/2008	146-2008
12-19-1-7	Amended	397	03/19/2008	146-2008
12-19-1-8	Amended	398	03/19/2008	146-2008
12-19-1-9	Amended	399	03/19/2008	146-2008
12-19-1-10	Amended	400	03/19/2008	146-2008
12-19-1-11	Repealed	804	03/19/2008	146-2008
12-19-1-12	Repealed	804	03/19/2008	146-2008
12-19-1-13	Amended	401	03/19/2008	146-2008
12-19-1-15	Amended	402	01/01/2009	146-2008
12-19-1-16	Amended	403	01/01/2009	146-2008
12-19-1-18	Amended	404	03/19/2008	146-2008
12-19-1-19	Amended	405	03/19/2008	146-2008
12-19-1-21	Amended	406	01/01/2009	146-2008
12-19-1-22	Amended	407	07/01/2008	146-2008
12-19-1.5	Repealed	803	01/01/2009	146-2008
12-19-2-1	Amended	408	03/19/2008	146-2008
12-19-2-2	Amended	409	03/19/2008	146-2008
12-19-2-3	Amended	410	03/19/2008	146-2008
12-19-2-5	Amended	411	03/19/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
12-19-2-6	Amended	412	03/19/2008	146-2008
12-19-5	Repealed	806	01/01/2009	146-2008
12-19-6	Repealed	804	03/19/2008	146-2008
12-19-7	Repealed	806	01/01/2009	146-2008
12-19-7-1	Amended	413	03/19/2008	146-2008
12-19-7-1.5	Amended	414	03/19/2008	146-2008
12-19-7.5	Repealed	806	01/01/2009	146-2008
12-23-18-0.5	New	2	07/01/2008	116-2008
12-23-18-1	Amended	3	07/01/2008	116-2008
12-23-18-2	Amended	4	07/01/2008	116-2008
12-23-18-2.5	New	5	07/01/2008	116-2008
12-23-18-3	Amended	6	07/01/2008	116-2008
12-23-18-4	Amended	7	07/01/2008	116-2008
12-23-18-5	Amended	8	07/01/2008	116-2008
12-23-18-5.5	Amended	9	07/01/2008	116-2008
12-23-18-5.6	New	10	07/01/2008	116-2008
12-23-18-5.7	New	11	07/01/2008	116-2008
12-23-18-5.8	New	12	07/01/2008	116-2008
12-23-18-6	Repealed	13	07/01/2008	116-2008
12-24-13-5	Amended	415	01/01/2009	146-2008
12-24-13-6	Amended	416	01/01/2009	146-2008
12-26-8-9	Amended	417	01/01/2009	146-2008
12-26-10-4	Amended	418	01/01/2009	146-2008
12-29-1-5	Amended	99	03/13/2008	3-2008
12-29-1-5	Amended	419	03/19/2008	146-2008
12-29-2-2	Amended	3	07/01/2008	123-2008
12-29-2-15	Amended	4	07/01/2008	123-2008
12-29-2-16	Amended	5	07/01/2008	123-2008
12-29-2-18	Amended	420	07/01/2008	146-2008
12-29-2-20	Amended	6	07/01/2008	123-2008
12-29-4	New	7	03/24/2008	123-2008
12-31	New	7	07/01/2008	134-2008

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13-11-2-0.7	New	4	07/01/2008	114-2008
13-11-2-193.5	Amended	1	07/01/2008	18-2008
13-13-3-2	Amended	5	07/01/2008	114-2008
13-13-4-1	Amended	6	07/01/2008	114-2008
13-14-9.5-4	Amended	7	03/24/2008	114-2008
13-14-13	New	8	07/01/2008	114-2008
13-18-8-2	Amended	421	07/01/2008	146-2008
13-18-9-1	Amended	1	07/01/2010	25-2008
13-18-11-4	Amended	9	07/01/2008	114-2008

Affected Provisions	Type	SEC.	Effective	P.L.
13-18-12-2	Amended	10	07/01/2008	114-2008
13-18-12-4	Amended	11	07/01/2008	114-2008
13-18-12-5	Amended	12	07/01/2008	114-2008
13-18-12-6.5	Amended	13	07/01/2008	114-2008
13-18-12-7	Amended	14	07/01/2008	114-2008
13-19-4-2	Amended	15	07/01/2008	114-2008
13-19-4-3	Amended	16	07/01/2008	114-2008
13-20-2-10	New	17	03/24/2008	114-2008
13-20-2-11	New	18	03/24/2008	114-2008
13-20-17.7-0.5	New	19	07/01/2008	114-2008
13-20-17.7-5	Amended	20	07/01/2008	114-2008
13-20-17.7-6	Amended	21	07/01/2008	114-2008
13-21-3-12	Amended	22	03/24/2008	114-2008
13-21-3-15	Amended	422	01/01/2009	146-2008
13-21-3-15.5	Amended	423	01/01/2009	146-2008
13-23-7-1	Amended	23	07/01/2008	114-2008
13-30-8-1	Amended	24	03/24/2008	114-2008
13-30-10-1	Amended	25	03/24/2008	114-2008
13-30-10-1.5	New	26	03/24/2008	114-2008
13-30-10-2	Repealed	33	07/01/2008	114-2008
13-30-10-3	Amended	100	03/13/2008	3-2008
13-30-10-3	Repealed	33	07/01/2008	114-2008
13-30-10-4	Repealed	33	07/01/2008	114-2008

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14-8-2-1.5	New	1	07/01/2008	6-2008
14-8-2-20	Amended	1	07/01/2008	4-2008
14-8-2-48	Amended	1	07/01/2008	85-2008
14-8-2-49.2	Amended	2	07/01/2008	4-2008
14-8-2-53	Amended	1	07/01/2008	26-2008
14-8-2-67	Amended	5	07/01/2008	120-2008
14-8-2-67	Amended	28	07/01/2008	2-2008
14-8-2-77	Amended	29	07/01/2008	2-2008
14-8-2-77	Amended	6	07/01/2008	120-2008
14-8-2-77	Amended	2	07/01/2008	85-2008
14-8-2-103	Amended	1	07/01/2008	66-2008
14-8-2-107	Amended	3	07/01/2008	85-2008
14-8-2-123.5	New	4	07/01/2008	85-2008
14-8-2-137	Amended	2	07/01/2008	6-2008
14-9-5-3	Amended	2	07/01/2008	66-2008
14-9-5-4	New	3	07/01/2008	66-2008
14-9-8-1	Repealed	19	07/01/2008	26-2008
14-10-2-2.5	New	3	07/01/2008	84-2008

Affected Provisions	Type	SEC.	Effective	P.L.
14-10-2-3	Amended	4	07/01/2008	84-2008
14-14-1-22	Amended	6	07/01/2008	96-2008
14-20-1-1.5	Amended	4	07/01/2008	66-2008
14-20-1-2.5	New	5	07/01/2008	66-2008
14-20-1-8	Amended	6	07/01/2008	66-2008
14-20-1-16	Amended	7	07/01/2008	66-2008
14-20-1-26	New	8	07/01/2008	66-2008
14-21-1-2	Amended	2	07/01/2008	26-2008
14-21-1-3	Amended	3	07/01/2008	26-2008
14-21-1-6	Repealed	6	07/01/2008	85-2008
14-21-1-8	Amended	4	07/01/2008	26-2008
14-21-1-13.5	Amended	101	03/13/2008	3-2008
14-21-1-24	Amended	5	07/01/2008	26-2008
14-21-1-25	Amended	6	07/01/2008	26-2008
14-21-1-26	Amended	7	07/01/2008	26-2008
14-21-1-26.5	Amended	8	07/01/2008	26-2008
14-21-1-27	Amended	9	07/01/2008	26-2008
14-21-1-28	Amended	10	07/01/2008	26-2008
14-21-1-29	Amended	11	07/01/2008	26-2008
14-21-1-32	New	12	07/01/2008	26-2008
14-21-1-33	New	13	07/01/2008	26-2008
14-21-1-34	New	14	07/01/2008	26-2008
14-21-1-35	New	15	07/01/2008	26-2008
14-21-1-36	New	16	07/01/2008	26-2008
14-21-4	New	5	07/01/2008	85-2008
14-22-6-14	Amended	30	07/01/2008	2-2008
14-22-6-14	Amended	7	07/01/2008	120-2008
14-22-8-2	Amended	9	07/01/2008	66-2008
14-22-11-5	Amended	1	07/01/2008	14-2008
14-22-12-1	Amended	10	07/01/2008	66-2008
14-22-12-1.7	New	2	07/01/2008	14-2008
14-22-12-5	Amended	11	07/01/2008	66-2008
14-22-20.5-5	Amended	31	07/01/2008	2-2008
14-22-38-4	Amended	32	07/01/2008	2-2008
14-22-40-5	Amended	17	07/01/2008	26-2008
14-23-3-3	Amended	424	07/01/2008	146-2008
14-24-4.5-13	Amended	8	07/01/2008	120-2008
14-24-4.5-14	Amended	9	07/01/2008	120-2008
14-25-1-11	Amended	3	07/01/2008	4-2008
14-25-2-2.5	Amended	102	03/13/2008	3-2008
14-25-7-15	Amended	4	07/01/2008	4-2008
14-25-14-4	Amended	10	07/01/2008	120-2008
14-25-15	New	5	07/01/2008	4-2008
14-26-2-1.2	New	3	07/01/2008	6-2008

Affected Provisions	Type	SEC.	Effective	P.L.
14-26-2-1.5	New	4	07/01/2008	6-2008
14-26-2-7	Amended	5	07/01/2008	6-2008
14-26-2-8	Amended	6	07/01/2008	6-2008
14-26-2-10	Amended	7	07/01/2008	6-2008
14-26-2-12	Amended	8	07/01/2008	6-2008
14-26-2-14.5	New	9	07/01/2008	6-2008
14-26-2-23	Amended	10	07/01/2008	6-2008
14-26-2-24	New	11	07/01/2008	6-2008
14-26-2-25	New	12	07/01/2008	6-2008
14-27-6-40	Amended	425	07/01/2008	146-2008
14-28-1-24	Amended	1	03/13/2008	53-2008
14-28-1-25	Amended	2	03/13/2008	53-2008
14-28-5-6	Amended	3	03/13/2008	53-2008
14-28-5-7	Amended	4	03/13/2008	53-2008
14-28-5-8	Amended	5	03/13/2008	53-2008
14-28-5-9	Amended	6	03/13/2008	53-2008
14-28-5-10	Amended	7	03/13/2008	53-2008
14-28-5-11	Amended	8	03/13/2008	53-2008
14-28-5-14	Amended	9	03/13/2008	53-2008
14-30-2-19	Amended	426	03/19/2008	146-2008
14-30-4-16	Amended	427	03/19/2008	146-2008
14-32-2-1	Amended	11	07/01/2008	120-2008
14-32-2-1	Amended	33	07/01/2008	2-2008
14-32-2-3	Amended	12	07/01/2008	120-2008
14-32-2-7	Amended	13	07/01/2008	120-2008
14-32-2-8	Amended	34	07/01/2008	2-2008
14-32-2-8	Amended	14	07/01/2008	120-2008
14-32-5-4	Amended	35	07/01/2008	2-2008
14-32-5-4	Amended	15	07/01/2008	120-2008
14-32-7-6	Amended	16	07/01/2008	120-2008
14-32-7-7	Amended	17	07/01/2008	120-2008
14-32-7-8	Amended	18	07/01/2008	120-2008
14-32-7-8.5	Amended	19	07/01/2008	120-2008
14-32-7-9	Amended	20	07/01/2008	120-2008
14-32-7-10	Amended	21	07/01/2008	120-2008
14-32-7-11	Amended	22	07/01/2008	120-2008
14-32-7-13	Amended	23	07/01/2008	120-2008
14-32-8-4	Amended	36	07/01/2008	2-2008
14-33-9-1	Amended	428	03/19/2008	146-2008
14-33-11-8	Amended	429	07/01/2008	146-2008
14-33-11-9	Amended	430	07/01/2008	146-2008
14-34-2-2	Amended	5	07/01/2008	84-2008

Affected Provisions	Type	SEC.	Effective	P.L.
Title 15				
15-1	Repealed	83	07/01/2008	2-2008
15-1-2-12	Amended	1	07/01/2008	86-2008
15-1-6-2	Amended	2	07/01/2008	86-2008
15-1.5	Repealed	83	07/01/2008	2-2008
15-2.1	Repealed	83	07/01/2008	2-2008
15-2.1-7-5	Amended	3	07/01/2008	86-2008
15-2.1-15-4	Amended	4	07/01/2008	86-2008
15-2.1-18-10	Amended	5	07/01/2008	86-2008
15-3	Repealed	83	07/01/2008	2-2008
15-4	Repealed	83	07/01/2008	2-2008
15-5	Repealed	83	07/01/2008	2-2008
15-6	Repealed	83	07/01/2008	2-2008
15-7	Repealed	83	07/01/2008	2-2008
15-7-1-23	Amended	6	07/01/2008	86-2008
15-7-1-29	Amended	47	07/01/2008	106-2008
15-9	Repealed	83	07/01/2008	2-2008
15-9-5-2	Amended	1	03/19/2008	91-2008
15-9-5-6.5	New	2	03/19/2008	91-2008
15-9-5-7	Amended	3	03/19/2008	91-2008
15-9-5-8	Amended	4	03/19/2008	91-2008
15-10	New	1	07/01/2008	2-2008
15-11	New	2	07/01/2008	2-2008
15-11-1-2	Amended	24	07/01/2008	120-2008
15-11-1-3	Amended	25	07/01/2008	120-2008
15-11-2-1	Amended	26	07/01/2008	120-2008
15-11-2-3	Amended	27	07/01/2008	120-2008
15-11-2-6	New	28	07/01/2008	120-2008
15-11-2-7	New	29	07/01/2008	120-2008
15-11-6-1	Amended	30	07/01/2008	120-2008
15-11-6-3	Repealed	94	07/01/2008	120-2008
15-11-6-4	Repealed	94	07/01/2008	120-2008
15-11-6-5	Repealed	94	07/01/2008	120-2008
15-11-6-6	Repealed	94	07/01/2008	120-2008
15-11-7-1.3	New	31	07/01/2008	120-2008
15-11-7-1.6	New	32	07/01/2008	120-2008
15-11-7-2	Amended	33	07/01/2008	120-2008
15-11-9-2	Repealed	94	07/01/2008	120-2008
15-11-9-3	Repealed	94	07/01/2008	120-2008
15-11-11-2	Amended	5	07/01/2008	91-2008
15-11-11-6.5	New	6	07/01/2008	91-2008
15-11-11-7	Amended	7	07/01/2008	91-2008
15-11-11-8	Amended	8	07/01/2008	91-2008

Affected Provisions	Type	SEC.	Effective	P.L.
15-12	New	3	07/01/2008	2-2008
15-12-1-43	Amended	7	07/01/2008	86-2008
15-12-1-48	Amended	48	07/01/2008	106-2008
15-12-2-1	Amended	34	07/01/2008	120-2008
15-12-4-1	Amended	35	07/01/2008	120-2008
15-12-5-2	Amended	36	07/01/2008	120-2008
15-13	New	4	07/01/2008	2-2008
15-13-2-2	Amended	37	07/01/2008	120-2008
15-13-5-2	Amended	38	07/01/2008	120-2008
15-13-5-9	Amended	39	07/01/2008	120-2008
15-13-5-10	Amended	40	07/01/2008	120-2008
15-13-5-13	Amended	41	07/01/2008	120-2008
15-13-5-14	Amended	42	07/01/2008	120-2008
15-13-5-15	Amended	43	07/01/2008	120-2008
15-13-5-16	Amended	44	07/01/2008	120-2008
15-13-5-18	Amended	45	07/01/2008	120-2008
15-13-5-23	Amended	46	07/01/2008	120-2008
15-13-8-3	Amended	431	07/01/2008	146-2008
15-13-9-1	Amended	432	07/01/2008	146-2008
15-13-9-5	New	433	07/01/2008	146-2008
15-13-11-3	Amended	47	07/01/2008	120-2008
15-14	New	5	07/01/2008	2-2008
15-14-1-12	Amended	8	07/01/2008	86-2008
15-14-7-3	Amended	9	07/01/2008	86-2008
15-15	New	6	07/01/2008	2-2008
15-15-5-1	Amended	48	07/01/2008	120-2008
15-15-7-11	Amended	49	07/01/2008	120-2008
15-15-8-3	Amended	50	07/01/2008	120-2008
15-15-11-10	Amended	51	07/01/2008	120-2008
15-15-12-6	Amended	52	07/01/2008	120-2008
15-16	New	7	07/01/2008	2-2008
15-16-2-2.5	New	53	07/01/2008	120-2008
15-16-2-3	Amended	54	07/01/2008	120-2008
15-16-2-4	Amended	55	07/01/2008	120-2008
15-16-2-9	Amended	56	07/01/2008	120-2008
15-16-2-23	Amended	57	07/01/2008	120-2008
15-16-2-25	Amended	58	07/01/2008	120-2008
15-16-2-49.5	New	59	07/01/2008	120-2008
15-16-4-2	Amended	60	07/01/2008	120-2008
15-16-4-20	Amended	61	07/01/2008	120-2008
15-16-4-24	Amended	62	07/01/2008	120-2008
15-16-4-42	Amended	63	07/01/2008	120-2008
15-16-4-46	Amended	64	07/01/2008	120-2008
15-16-4-47	Amended	65	07/01/2008	120-2008

Affected Provisions	Type	SEC.	Effective	P.L.
15-16-4-53	Amended	66	07/01/2008	120-2008
15-16-4-55	Amended	67	07/01/2008	120-2008
15-16-4-57	Amended	68	07/01/2008	120-2008
15-16-4-64	Amended	69	07/01/2008	120-2008
15-16-4-64.5	New	70	07/01/2008	120-2008
15-16-4-70	Amended	71	07/01/2008	120-2008
15-16-4-73	Amended	72	07/01/2008	120-2008
15-16-5-31	Amended	73	07/01/2008	120-2008
15-16-5-42	Amended	74	07/01/2008	120-2008
15-16-5-48	Amended	75	07/01/2008	120-2008
15-16-5-52	Amended	76	07/01/2008	120-2008
15-16-5-58	Amended	77	07/01/2008	120-2008
15-16-5-59	Amended	78	07/01/2008	120-2008
15-16-5-62	Amended	79	07/01/2008	120-2008
15-16-5-63	Amended	80	07/01/2008	120-2008
15-16-5-64	Amended	81	07/01/2008	120-2008
15-16-5-65	Amended	82	07/01/2008	120-2008
15-16-5-69	Amended	83	07/01/2008	120-2008
15-16-5-70	Amended	84	07/01/2008	120-2008
15-17	New	8	07/01/2008	2-2008
15-17-5.5	New	85	07/01/2008	120-2008
15-17-7-5	Amended	10	07/01/2008	86-2008
15-17-10-1	Amended	11	07/01/2008	86-2008
15-17-15-3	Amended	12	07/01/2008	86-2008
15-18	New	9	07/01/2008	2-2008
15-18-5-3	Amended	86	07/01/2008	120-2008
15-18-5-16	Amended	87	07/01/2008	120-2008
15-19	New	10	07/01/2008	2-2008
15-19-7-26	Amended	88	07/01/2008	120-2008
15-19-7-27	Amended	89	07/01/2008	120-2008
15-20	New	11	07/01/2008	2-2008

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16-18-2-9.3	New	1	03/21/2008	102-2008
16-18-2-36.5	Amended	8	07/01/2008	134-2008
16-18-2-37.5	Amended	103	03/13/2008	3-2008
16-18-2-56.2	New	2	03/21/2008	102-2008
16-18-2-69.2	New	3	03/21/2008	102-2008
16-18-2-97	Amended	104	03/13/2008	3-2008
16-18-2-116.2	New	4	07/01/2008	102-2008
16-18-2-137	Amended	105	03/13/2008	3-2008
16-18-2-143	Amended	106	03/13/2008	3-2008
16-18-2-143	Amended	5	03/21/2008	102-2008

Affected Provisions	Type	SEC.	Effective	P.L.
16-18-2-160.5	Amended	107	03/13/2008	3-2008
16-18-2-198.7	New	6	03/21/2008	102-2008
16-18-2-214.7	New	7	03/21/2008	102-2008
16-18-2-292.7	New	8	03/21/2008	102-2008
16-18-2-315.5	Repealed	269	03/13/2008	3-2008
16-18-2-315.8	New	9	07/01/2008	102-2008
16-18-2-339	Amended	37	07/01/2008	2-2008
16-18-2-340	Amended	38	07/01/2008	2-2008
16-18-2-349.5	New	10	03/21/2008	102-2008
16-19-6-5	Amended	17	07/01/2008	21-2008
16-19-6-9	Amended	18	07/01/2008	21-2008
16-20-1-14	Amended	9	07/01/2008	134-2008
16-20-2-5	Amended	39	07/01/2008	2-2008
16-20-3-2	Amended	40	07/01/2008	2-2008
16-21-7.5	New	10	07/01/2008	134-2008
16-22-6-20	Amended	434	07/01/2008	146-2008
16-22-8-34	Amended	11	07/01/2008	134-2008
16-22-8-34	Amended	108	03/13/2008	3-2008
16-22-8-43	Amended	435	07/01/2008	146-2008
16-27-2-5	Amended	12	03/24/2008	134-2008
16-28-11-5.5	New	13	07/01/2008	134-2008
16-28-14-3	Amended	109	03/13/2008	3-2008
16-31-2-7	Amended	1	07/01/2008	20-2008
16-31-3-2	Amended	1	07/01/2008	71-2008
16-33-3-10	Amended	436	03/19/2008	146-2008
16-33-4-12	Amended	437	03/19/2008	146-2008
16-33-4-13	Amended	438	03/19/2008	146-2008
16-33-4-14	Amended	439	03/19/2008	146-2008
16-33-4-15	Amended	440	03/19/2008	146-2008
16-33-4-16	Amended	441	03/19/2008	146-2008
16-33-4-17	Amended	442	03/19/2008	146-2008
16-33-4-17.5	Amended	443	01/01/2009	146-2008
16-34-2-1.1	Amended	444	03/19/2008	146-2008
16-34-2-3	Amended	445	03/19/2008	146-2008
16-35-3	Repealed	806	01/01/2009	146-2008
16-35-4	Repealed	806	01/01/2009	146-2008
16-35-4-2	Amended	446	03/19/2008	146-2008
16-35-4-3	Amended	447	03/19/2008	146-2008
16-35-5	Repealed	806	01/01/2009	146-2008
16-37-1-9	Amended	110	03/13/2008	3-2008
16-37-1-12	Amended	1	07/01/2008	41-2008
16-39-3-8	Amended	448	03/19/2008	146-2008
16-40-1-2	Amended	449	03/19/2008	146-2008
16-40-5-6	Amended	111	03/13/2008	3-2008

Affected Provisions	Type	SEC.	Effective	P.L.
16-41-1-4	New	1	07/01/2008	78-2008
16-41-2-1	Amended	2	02/22/2008	8-2008
16-41-37.5-0.3	New	7	07/01/2008	79-2008
16-41-37.5-0.5	New	8	07/01/2008	79-2008
16-41-37.5-1.3	New	9	07/01/2008	79-2008
16-41-37.5-2	Amended	10	07/01/2008	79-2008
16-41-37.5-3	Amended	11	07/01/2008	79-2008
16-41-37.5-4	New	12	07/01/2008	79-2008
16-41-39.4-3	Amended	11	03/21/2008	102-2008
16-41-39.4-3.1	New	12	03/21/2008	102-2008
16-41-39.4-6	New	13	03/21/2008	102-2008
16-41-39.4-7	New	14	03/21/2008	102-2008
16-41-39.4-9	New	15	03/21/2008	102-2008
16-41-41-3	Amended	1	07/01/2008	59-2008
16-41-41-5	Amended	2	07/01/2008	59-2008
16-41-41-6	Amended	3	07/01/2008	59-2008
16-41-41-9	Amended	4	07/01/2008	59-2008
16-41-41-10	Amended	5	07/01/2008	59-2008
16-41-41-11	Amended	6	06/30/2008	59-2008
16-41-42	Repealed	269	03/13/2008	3-2008
16-41-42-3	Repealed	7	07/01/2008	97-2008
16-41-42.1	New	112	03/13/2008	3-2008
16-41-42.2	New	113	03/13/2008	3-2008
16-41-42.2-3	Amended	5	07/01/2008	97-2008
16-42-1-1.1	Amended	41	07/01/2008	2-2008
16-42-2-1.1	Amended	42	07/01/2008	2-2008
16-42-3-2.5	Amended	43	07/01/2008	2-2008
16-42-4-1.1	Amended	44	07/01/2008	2-2008
16-42-21-3	Amended	1	07/01/2008	105-2008

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20-19-2-8	Amended	450	01/01/2009	146-2008
20-19-2-12	Amended	451	01/01/2009	146-2008
20-19-2-13	Amended	452	01/01/2009	146-2008
20-19-2-20	Amended	114	03/13/2008	3-2008
20-19-3-8	Amended	453	01/01/2009	146-2008
20-20-8-8	Amended	115	03/13/2008	3-2008
20-20-13-6	Amended	116	03/13/2008	3-2008
20-20-34-1	Amended	454	01/01/2009	146-2008
20-20-34-2	Amended	455	01/01/2009	146-2008
20-20-36	New	456	01/01/2009	146-2008
20-20-36	New	1	07/01/2008	140-2008
20-21-2-8	Amended	457	03/19/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
20-22-2-8	Amended	458	03/19/2008	146-2008
20-23-4-42	Amended	459	01/01/2009	146-2008
20-24-7-2	Amended	460	01/01/2009	146-2008
20-24-7-3	Amended	461	01/01/2009	146-2008
20-24-7-4	Amended	462	01/01/2009	146-2008
20-24-7-9	Amended	463	01/01/2009	146-2008
20-24-7-12	Repealed	807	01/01/2009	146-2008
20-24.5-2-10	Amended	464	01/01/2009	146-2008
20-25-8-3	Amended	465	03/19/2008	146-2008
20-26-7-17	Amended	466	01/01/2009	146-2008
20-26-7-18	Amended	467	07/01/2008	146-2008
20-26-9-12	Amended	468	01/01/2009	146-2008
20-26-11-9	Amended	469	03/19/2008	146-2008
20-26-11-12	Amended	470	01/01/2009	146-2008
20-26-11-13	Amended	471	01/01/2009	146-2008
20-26-11-17	Amended	472	01/01/2009	146-2008
20-26-11-23	Amended	473	01/01/2009	146-2008
20-26-11-30	New	2	07/01/2008	133-2008
20-26-13-10	Amended	1	07/01/2008	45-2008
20-26-13-10.7	Amended	2	07/01/2008	45-2008
20-26-13-12	Amended	3	07/01/2008	45-2008
20-27-7-16	Amended	4	07/01/2008	31-2008
20-27-7-18	Amended	5	07/01/2008	31-2008
20-28-2-2	Amended	117	03/13/2008	3-2008
20-28-5-3	Amended	1	07/01/2008	75-2008
20-28-5-15	New	2	07/01/2008	75-2008
20-30-4-1	Amended	2	07/01/2008	140-2008
20-30-4-1.5	New	3	07/01/2008	140-2008
20-30-4-2	Amended	4	07/01/2008	140-2008
20-30-4-4	Amended	5	07/01/2008	140-2008
20-30-4-5	Amended	6	07/01/2008	140-2008
20-30-4-6	Amended	7	07/01/2008	140-2008
20-30-5.5	New	12	07/01/2008	119-2008
20-31-11-6	Amended	474	01/01/2009	146-2008
20-33-1-1	Amended	118	03/13/2008	3-2008
20-33-2-13	Amended	8	07/01/2008	140-2008
20-33-2-20	Amended	1	07/01/2008	34-2008
20-33-2-26	Amended	2	07/01/2008	34-2008
20-33-2-29	Amended	475	01/01/2009	146-2008
20-33-3-30	Amended	3	07/01/2008	13-2008
20-34-5-11	Amended	119	03/13/2008	3-2008
20-35-7-3	Amended	120	03/13/2008	3-2008
20-40-4-2	Repealed	809	01/01/2009	146-2008
20-40-4-4	Amended	476	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
20-40-8-1	Amended	477	01/01/2009	146-2008
20-40-8-19	Amended	528	07/01/2008	146-2008
20-40-8-21	New	478	01/01/2009	146-2008
20-40-12-6	Amended	479	01/01/2009	146-2008
20-42-2-1	Amended	1	07/01/2008	39-2008
20-42-2-4.5	New	2	07/01/2008	39-2008
20-42-2-6	Amended	3	07/01/2008	39-2008
20-42-2-7	Amended	4	07/01/2008	39-2008
20-42-2-8	Amended	5	07/01/2008	39-2008
20-42-3-10	Amended	121	03/13/2008	3-2008
20-43-1-5	Repealed	807	01/01/2009	146-2008
20-43-1-16	Repealed	807	01/01/2009	146-2008
20-43-1-17	Amended	480	01/01/2009	146-2008
20-43-2-1	Amended	481	01/01/2009	146-2008
20-43-2-2	Amended	482	07/01/2008	146-2008
20-43-2-3	Amended	122	03/13/2008	3-2008
20-43-3-1	Amended	483	01/01/2009	146-2008
20-43-3-3	Amended	484	01/01/2009	146-2008
20-43-3-4	Amended	485	01/01/2009	146-2008
20-43-3-4	Amended	123	03/13/2008	3-2008
20-43-3-5	Repealed	807	01/01/2009	146-2008
20-43-3-6	Repealed	807	01/01/2009	146-2008
20-43-3-6	Amended	486	03/19/2008	146-2008
20-43-4-1	Amended	124	03/13/2008	3-2008
20-43-4-1	Amended	487	01/01/2009	146-2008
20-43-5-3	Amended	125	03/13/2008	3-2008
20-43-5-7	Amended	126	03/13/2008	3-2008
20-43-6-2	Repealed	807	01/01/2009	146-2008
20-43-6-3	Amended	488	01/01/2009	146-2008
20-43-6-4	Repealed	807	01/01/2009	146-2008
20-43-6-5	Amended	489	01/01/2009	146-2008
20-43-6-6	Repealed	807	01/01/2009	146-2008
20-43-11.5	New	490	07/01/2008	146-2008
20-44-3-3	Amended	491	01/01/2009	146-2008
20-45-1-3	Repealed	807	01/01/2009	146-2008
20-45-1-4	Repealed	807	01/01/2009	146-2008
20-45-1-7	Repealed	810	01/01/2009	146-2008
20-45-1-7	Repealed	807	01/01/2009	146-2008
20-45-1-8	Repealed	807	01/01/2009	146-2008
20-45-1-9	Repealed	807	01/01/2009	146-2008
20-45-1-10	Repealed	807	01/01/2009	146-2008
20-45-1-11	Repealed	807	01/01/2009	146-2008
20-45-1-13	Repealed	807	01/01/2009	146-2008
20-45-1-15	Repealed	807	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
20-45-1-16	Repealed	807	01/01/2009	146-2008
20-45-1-17	Repealed	807	01/01/2009	146-2008
20-45-1-18	Repealed	807	01/01/2009	146-2008
20-45-1-20	Repealed	807	01/01/2009	146-2008
20-45-1-21	Repealed	807	01/01/2009	146-2008
20-45-1-22	Repealed	807	01/01/2009	146-2008
20-45-2	Repealed	807	01/01/2009	146-2008
20-45-3	Repealed	807	01/01/2009	146-2008
20-45-3-5	Amended	127	03/13/2008	3-2008
20-45-4	Repealed	810	01/01/2009	146-2008
20-45-5	Repealed	810	01/01/2009	146-2008
20-45-6	Repealed	810	01/01/2009	146-2008
20-45-7-20	Amended	492	03/19/2008	146-2008
20-45-8-20	Amended	493	07/01/2008	146-2008
20-46-1-2	Repealed	810	01/01/2009	146-2008
20-46-1-7	Amended	494	01/01/2009	146-2008
20-46-1-8	Amended	495	07/01/2008	146-2008
20-46-1-9	Amended	496	07/01/2008	146-2008
20-46-1-12	Amended	497	07/01/2008	146-2008
20-46-1-13	Amended	498	07/01/2008	146-2008
20-46-1-14	Amended	499	07/01/2008	146-2008
20-46-1-15	Amended	500	07/01/2008	146-2008
20-46-1-17	Amended	501	07/01/2008	146-2008
20-46-1-18	Amended	502	01/01/2009	146-2008
20-46-1-19	Amended	503	01/01/2009	146-2008
20-46-2	Repealed	809	01/01/2009	146-2008
20-46-3-8	Repealed	810	01/01/2009	146-2008
20-46-4-9	Repealed	810	01/01/2009	146-2008
20-46-5-6	Amended	504	03/19/2008	146-2008
20-46-5-7	Amended	505	03/19/2008	146-2008
20-46-5-8	Amended	506	01/01/2009	146-2008
20-46-6-8	Amended	507	03/19/2008	146-2008
20-46-6-9	Amended	508	03/19/2008	146-2008
20-46-7-8	Amended	509	07/01/2008	146-2008
20-46-7-8.5	New	510	07/01/2008	146-2008
20-46-7-9	Amended	511	07/01/2008	146-2008
20-46-7-10	Amended	512	03/19/2008	146-2008
20-46-7-11	Amended	513	03/19/2008	146-2008
20-46-7-12	Amended	514	03/19/2008	146-2008
20-47-1-2.5	New	1	07/01/2008	11-2008
20-47-1-6	Amended	2	07/01/2008	11-2008
20-47-2-13	Amended	515	07/01/2008	146-2008
20-47-2-14	Amended	516	07/01/2008	146-2008
20-47-3-5	Amended	517	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
20-47-3-8	Amended	518	07/01/2008	146-2008
20-47-3-11	Amended	519	07/01/2008	146-2008
20-47-3-12	Amended	520	07/01/2008	146-2008
20-47-4-6	Amended	521	07/01/2008	146-2008
20-48-1-4	Amended	522	07/01/2008	146-2008
20-48-1-8	Amended	523	07/01/2008	146-2008
20-48-1-9	Amended	524	01/01/2009	146-2008
20-48-1-11	Amended	525	01/01/2009	146-2008
20-48-4-7	Amended	526	07/01/2008	146-2008
20-48-4-8	Amended	527	07/01/2008	146-2008
20-49-3-8	Amended	529	01/01/2009	146-2008
20-49-8.2-1	Amended	52	03/24/2008	131-2008
20-50	New	3	07/01/2008	133-2008

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21-7-13-9	Amended	128	03/13/2008	3-2008
21-7-13-29	Amended	129	03/13/2008	3-2008
21-11-9-4	Amended	130	03/13/2008	3-2008
21-12-3-3	Amended	1	07/01/2008	125-2008
21-12-3-4	Amended	2	07/01/2008	125-2008
21-12-3-9	Amended	3	07/01/2008	125-2008
21-12-3-10	Amended	4	07/01/2008	125-2008
21-12-6-5	Amended	131	03/13/2008	3-2008
21-12-8-7	Repealed	5	07/01/2008	125-2008
21-14-1-4	Amended	1	07/01/2008	141-2008
21-14-2-7	Amended	132	03/13/2008	3-2008
21-14-4-2	Amended	2	03/24/2008	141-2008
21-14-7-2	Amended	3	03/24/2008	141-2008
21-14-8-1	Amended	9	07/01/2008	140-2008
21-14-10	New	4	07/01/2008	141-2008
21-17-4-4	Amended	133	03/13/2008	3-2008
21-17-4-5	Amended	134	03/13/2008	3-2008
21-20-4-5	Amended	135	03/13/2008	3-2008
21-22-2-2	Amended	136	03/13/2008	3-2008
21-22-6-8	Amended	137	03/13/2008	3-2008
21-30-6-2	Amended	138	03/13/2008	3-2008
21-34-7-1	Amended	139	03/13/2008	3-2008
21-34-10-4	Amended	140	03/13/2008	3-2008
21-35-4-8	Amended	141	03/13/2008	3-2008
21-35-5-5	Amended	142	03/13/2008	3-2008
21-35-6-5	Amended	143	03/13/2008	3-2008
21-35-7-7	Amended	144	03/13/2008	3-2008
21-38-2-3	Amended	145	03/13/2008	3-2008

Affected Provisions	Type	SEC.	Effective	P.L.
21-38-3-3	Amended	146	03/13/2008	3-2008
21-41-5-11	Amended	147	03/13/2008	3-2008
21-43-6-2	Amended	148	03/13/2008	3-2008
21-43-6-3	Amended	149	03/13/2008	3-2008
21-43-7-2	Amended	150	03/13/2008	3-2008
21-43-7-3	Amended	151	03/13/2008	3-2008
21-43-8-2	Amended	152	03/13/2008	3-2008
21-43-8-3	Amended	153	03/13/2008	3-2008
21-44-1-13	Amended	154	03/13/2008	3-2008
21-44-5-5	Amended	155	03/13/2008	3-2008
21-46-1-2	Repealed	83	07/01/2008	2-2008
21-46-2-1	Repealed	83	07/01/2008	2-2008
21-46-2-1	Amended	90	07/01/2008	120-2008
21-46-2-2	Amended	45	07/01/2008	2-2008
21-46-2-3	Repealed	83	07/01/2008	2-2008
21-46-2-4	Repealed	83	07/01/2008	2-2008

Title 22

22-2-14	New	4	07/01/2008	13-2008
22-3-3-10	Amended	156	03/13/2008	3-2008
22-3-11-1	Amended	157	03/13/2008	3-2008
22-3-11-3	Repealed	269	03/13/2008	3-2008
22-3-11-4	Repealed	269	03/13/2008	3-2008
22-3-11-6	Repealed	269	03/13/2008	3-2008
22-4-5-1	Amended	2	03/15/2008	138-2008
22-4-8-2	Amended	158	03/13/2008	3-2008
22-4-14-1	Amended	3	03/15/2008	138-2008
22-4-17-2.5	Amended	159	03/13/2008	3-2008
22-4-25-1	Amended	4	03/15/2008	138-2008
22-4-26-5	Amended	160	03/13/2008	3-2008
22-4-29-14	New	5	03/15/2008	138-2008
22-4-31-6	Amended	6	03/15/2008	138-2008
22-4.1-2-2	Amended	161	03/13/2008	3-2008
22-4.1-4-1	Amended	162	03/13/2008	3-2008
22-4.1-14-6	Amended	163	03/13/2008	3-2008
22-8-1.1-1	Amended	1	07/01/2008	32-2008
22-8-1.1-40	Amended	2	07/01/2008	32-2008
22-8-1.1-41	Amended	3	07/01/2008	32-2008
22-8-1.1-42	Amended	4	07/01/2008	32-2008
22-8-1.1-43	Amended	5	07/01/2008	32-2008
22-8-1.1-48	Amended	6	07/01/2008	32-2008
22-8-1.1-48.1	Amended	7	07/01/2008	32-2008
22-8-1.1-48.4	Amended	8	07/01/2008	32-2008

Affected Provisions	Type	SEC.	Effective	P.L.
22-11-18-1	Amended	1	07/01/2008	17-2008
22-11-18-5	Amended	2	07/01/2008	17-2008
22-11-18-5.5	New	3	07/01/2008	17-2008
22-11-20-5	Amended	46	07/01/2008	2-2008
22-12-1-5	Amended	1	07/01/2008	72-2008
22-12-10	New	2	07/01/2008	72-2008
22-14-3-2	Amended	6	07/01/2008	57-2008
22-14-7	New	1	03/19/2008	82-2008

Title 23

23-1-18-3	Amended	49	07/01/2008	106-2008
23-1-39-3	Amended	164	03/13/2008	3-2008
23-1-40-3	Amended	165	03/13/2008	3-2008
23-1-55	New	1	07/01/2008	92-2008
23-1.5-1-14	Amended	47	07/01/2008	2-2008
23-2-4-15	Amended	166	03/13/2008	3-2008
23-2-5-3	Amended	10	07/01/2008	145-2008
23-2-5-4	Amended	11	07/01/2008	145-2008
23-2-5-5	Amended	167	03/13/2008	3-2008
23-2-5-5	Amended	12	07/01/2008	145-2008
23-2-5-6	Amended	13	07/01/2008	145-2008
23-2-5-10	Amended	14	07/01/2008	145-2008
23-2-5-11	Amended	15	07/01/2008	145-2008
23-2-5-18	Amended	16	07/01/2008	145-2008
23-2-5-19	Amended	17	07/01/2008	145-2008
23-2-5-20	Amended	18	07/01/2008	145-2008
23-2-5-22	Amended	19	07/01/2008	145-2008
23-14-48-3	Amended	1	07/01/2008	61-2008
23-14-48-4	Amended	168	03/13/2008	3-2008
23-14-48-5	Amended	169	03/13/2008	3-2008
23-14-48-7	Amended	2	07/01/2008	61-2008
23-14-55-2	Amended	170	03/13/2008	3-2008
23-14-57-4	Amended	18	07/01/2008	26-2008
23-14-68-3	Amended	48	07/01/2008	2-2008
23-14-69-3	Amended	49	07/01/2008	2-2008
23-14-74-1	Amended	50	07/01/2008	2-2008
23-14-77	New	3	07/01/2008	61-2008
23-15-1-1	Amended	50	07/01/2008	106-2008
23-16-12-4	Amended	51	07/01/2008	106-2008
23-17-2-27	Amended	3	07/01/2008	110-2008
23-17-10-5	Amended	4	07/01/2008	110-2008
23-17-13-1	Amended	5	07/01/2008	110-2008
23-17-13-2	Repealed	13	07/01/2008	110-2008

Affected Provisions	Type	SEC.	Effective	P.L.
23-17-13-2.5	New	6	07/01/2008	110-2008
23-17-15-6	Amended	7	07/01/2008	110-2008
23-17-27-1	Amended	8	07/01/2008	110-2008
23-17-28-5	Amended	9	07/01/2008	110-2008
23-17-29-3	Amended	52	07/01/2008	106-2008
23-18-12-3	Amended	53	07/01/2008	106-2008
23-18-12-3	Amended	2	07/01/2008	92-2008
23-19-1-3	Amended	171	07/01/2008	3-2008
23-19-6-5	Amended	172	07/01/2008	3-2008

Title 24

24-1-1-5.1	New	1	03/24/2008	135-2008
24-1-1-5.2	New	2	03/24/2008	135-2008
24-1-2-5.1	New	3	03/24/2008	135-2008
24-1-2-7	Amended	4	03/24/2008	135-2008
24-1-3-3.1	New	5	03/24/2008	135-2008
24-1-3-4	Amended	6	03/24/2008	135-2008
24-1-4-4	Amended	7	03/24/2008	135-2008
24-1-4-5	New	8	03/24/2008	135-2008
24-4-15-5	Amended	14	07/01/2008	134-2008
24-4-15-5	Amended	173	03/13/2008	3-2008
24-4-15-7	Amended	15	07/01/2008	134-2008
24-4-16	New	1	07/01/2008	63-2008
24-4-16.4	New	3	07/01/2008	92-2008
24-4.4	New	20	01/01/2009	145-2008
24-4.5-1-102	Amended	4	07/01/2008	90-2008
24-4.5-1-201	Amended	5	07/01/2008	90-2008
24-4.5-1-301	Amended	6	07/01/2008	90-2008
24-4.5-1-301	Amended	21	01/01/2009	145-2008
24-4.5-2-107	Amended	22	01/01/2009	145-2008
24-4.5-2-201	Amended	23	01/01/2009	145-2008
24-4.5-2-209	Amended	24	01/01/2009	145-2008
24-4.5-3-105	Amended	7	07/01/2008	90-2008
24-4.5-3-107	Amended	25	01/01/2009	145-2008
24-4.5-3-201	Amended	26	01/01/2009	145-2008
24-4.5-3-209	Amended	27	01/01/2009	145-2008
24-4.5-3-402	Amended	8	07/01/2008	90-2008
24-4.5-3-503	Amended	9	07/01/2008	90-2008
24-4.5-3-503	Amended	174	03/13/2008	3-2008
24-4.5-3-504	Amended	10	07/01/2008	90-2008
24-4.5-3-505	Amended	11	07/01/2008	90-2008
24-4.5-3-508	Amended	28	01/01/2009	145-2008
24-4.5-4-108	Amended	12	07/01/2008	90-2008

Affected Provisions	Type	SEC.	Effective	P.L.
24-4.5-6-203	Amended	13	07/01/2008	90-2008
24-4.5-7-202	Amended	14	07/01/2008	90-2008
24-4.5-7-404	Amended	15	07/01/2008	90-2008
24-4.5-7-406	Amended	16	07/01/2008	90-2008
24-4.5-7-409	Amended	17	07/01/2008	90-2008
24-4.5-7-410	Amended	18	07/01/2008	90-2008
24-4.9-2-2	Amended	2	07/01/2008	136-2008
24-5-25	New	1	07/01/2008	56-2008
24-6-7	Repealed	94	07/01/2008	120-2008
24-7-1-6	New	19	07/01/2008	90-2008
24-9-3-6	Amended	29	01/01/2009	145-2008

Title 25

25-1-2-2.1	Amended	175	03/13/2008	3-2008
25-1-2-6	Amended	176	03/13/2008	3-2008
25-1-4-0.2	Amended	51	07/01/2008	2-2008
25-1-4-0.3	Amended	52	07/01/2008	2-2008
25-1-4-1	Amended	53	07/01/2008	2-2008
25-1-4-2	Amended	54	07/01/2008	2-2008
25-1-4-3.2	Amended	55	07/01/2008	2-2008
25-1-4-4	Amended	56	07/01/2008	2-2008
25-1-5-3	Amended	57	07/01/2008	2-2008
25-1-5-10	Amended	58	07/01/2008	2-2008
25-1-6-3	Amended	177	03/13/2008	3-2008
25-1-7-1	Amended	178	07/01/2008	3-2008
25-1-7-1	Amended	16	07/01/2008	134-2008
25-1-8-1	Amended	179	07/01/2008	3-2008
25-1-8-6	Amended	180	07/01/2008	3-2008
25-1-8-6	Amended	2	07/01/2008	105-2008
25-1-9-1	Amended	59	07/01/2008	2-2008
25-1-9-10	Amended	60	07/01/2008	2-2008
25-1-11-1	Amended	181	03/13/2008	3-2008
25-1-11-13	Amended	182	03/13/2008	3-2008
25-1-12-1	Amended	61	07/01/2008	2-2008
25-1-12-5	Amended	62	07/01/2008	2-2008
25-1-14-2	Amended	3	07/01/2008	105-2008
25-2.1-2-3	Amended	4	07/01/2008	105-2008
25-2.1-2-10	Amended	183	03/13/2008	3-2008
25-2.1-4-2	Amended	5	07/01/2008	105-2008
25-2.1-4-4	Amended	6	07/01/2008	105-2008
25-2.5-2-3	Amended	7	07/01/2008	105-2008
25-2.5-2-3	Amended	17	07/01/2008	134-2008
25-2.5-2-5	Amended	8	07/01/2008	105-2008

Affected Provisions	Type	SEC.	Effective	P.L.
25-2.5-3-3	Amended	18	07/01/2008	134-2008
25-4-1-6	Amended	9	07/01/2008	105-2008
25-4-1-7	Amended	10	07/01/2008	105-2008
25-4-1-7.5	New	11	07/01/2008	105-2008
25-4-1-8	Amended	12	07/01/2008	105-2008
25-4-1-14	Amended	13	07/01/2008	105-2008
25-4-2-8.5	New	14	07/01/2008	105-2008
25-5.1-3-5	Amended	15	07/01/2008	105-2008
25-6.1-3-2	Amended	16	07/01/2008	105-2008
25-6.1-3-3	Amended	17	07/01/2008	105-2008
25-6.1-3-4	Amended	18	07/01/2008	105-2008
25-7-6-12	Amended	19	07/01/2008	105-2008
25-7-6-13	Repealed	67	07/01/2008	105-2008
25-7-6-14	Amended	20	07/01/2008	105-2008
25-7-6-15	Repealed	67	07/01/2008	105-2008
25-8-2-2.6	New	2	07/01/2008	78-2008
25-8-2-3.5	Repealed	7	07/01/2008	78-2008
25-8-2-3.5	Repealed	67	07/01/2008	105-2008
25-8-2-5	Amended	3	07/01/2008	78-2008
25-8-2-5.5	Repealed	7	07/01/2008	78-2008
25-8-2-9.5	Amended	4	07/01/2008	78-2008
25-8-2-17	Repealed	67	07/01/2008	105-2008
25-8-2-19	New	5	07/01/2008	78-2008
25-8-4-18	Amended	21	07/01/2008	105-2008
25-8-4-19	Amended	22	07/01/2008	105-2008
25-8-4-20	Repealed	67	07/01/2008	105-2008
25-8-4-21	Amended	23	07/01/2008	105-2008
25-8-4-27	Repealed	67	07/01/2008	105-2008
25-8-4-28	Repealed	67	07/01/2008	105-2008
25-8-5-4.2	Amended	6	07/01/2008	78-2008
25-8-15.4-9	Amended	24	07/01/2008	105-2008
25-8-15.4-9.5	Amended	25	07/01/2008	105-2008
25-10-1-6	Amended	26	07/01/2008	105-2008
25-11-1-9	Amended	184	03/13/2008	3-2008
25-13-1-2	Amended	19	07/01/2008	134-2008
25-13-1-8	Amended	27	07/01/2008	105-2008
25-13-1-10	Amended	20	07/01/2008	134-2008
25-13-1-10.6	New	21	07/01/2008	134-2008
25-13-1-11	Amended	22	07/01/2008	134-2008
25-13-2-6	Amended	28	07/01/2008	105-2008
25-14-1-1.5	Amended	23	07/01/2008	134-2008
25-14-1-10	Amended	29	07/01/2008	105-2008
25-14-1-23	Amended	24	07/01/2008	134-2008
25-14-1-27.5	Amended	1	03/12/2008	49-2008

Affected Provisions	Type	SEC.	Effective	P.L.
25-14.5-6-4	Amended	30	07/01/2008	105-2008
25-14.5-6-5	Repealed	67	07/01/2008	105-2008
25-15-6-1	Amended	31	07/01/2008	105-2008
25-15-6-4	Amended	32	07/01/2008	105-2008
25-15-6-6	Repealed	67	07/01/2008	105-2008
25-15-9-18	Amended	185	03/13/2008	3-2008
25-19-1-2	Amended	33	07/01/2008	105-2008
25-19-1-6	Amended	34	07/01/2008	105-2008
25-19-1-9	Amended	35	07/01/2008	105-2008
25-20-1-12	Amended	36	07/01/2008	105-2008
25-20.2-1-1	Amended	63	07/01/2008	2-2008
25-20.2-6-2	Amended	37	07/01/2008	105-2008
25-20.5-1-1	Amended	25	07/01/2008	134-2008
25-20.5-1-18	Amended	38	07/01/2008	105-2008
25-21.5-8-1	Amended	39	07/01/2008	105-2008
25-21.5-8-5	Repealed	67	07/01/2008	105-2008
25-21.8-4-2	Amended	186	03/13/2008	3-2008
25-22.5-5-2.5	Amended	40	07/01/2008	105-2008
25-22.5-5-2.7	New	41	07/01/2008	105-2008
25-22.5-7-1	Amended	42	07/01/2008	105-2008
25-23-1-1.1	Amended	26	07/01/2008	134-2008
25-23-1-1.2	Amended	27	07/01/2008	134-2008
25-23-1-7	Amended	28	07/01/2008	134-2008
25-23-1-11	Amended	29	07/01/2008	134-2008
25-23-1-12	Amended	30	07/01/2008	134-2008
25-23-1-16.1	Amended	31	07/01/2008	134-2008
25-23-1-19.4	Amended	43	07/01/2008	105-2008
25-23-1-27	Amended	32	07/01/2008	134-2008
25-23-1-28	Repealed	52	07/01/2008	134-2008
25-23-1-34	Amended	33	07/01/2008	134-2008
25-23.3	New	34	07/01/2008	134-2008
25-23.5-2-8	Amended	187	03/13/2008	3-2008
25-23.5-3-1.5	Amended	35	07/01/2008	134-2008
25-23.6-2-3	Amended	188	03/13/2008	3-2008
25-23.6-3-1	Amended	36	07/01/2008	134-2008
25-23.6-3-2	Amended	37	07/01/2008	134-2008
25-23.6-3-4	Amended	38	07/01/2008	134-2008
25-23.6-8-1	Amended	39	07/01/2008	134-2008
25-23.6-8-1.5	New	40	07/01/2008	134-2008
25-23.6-8-2.1	Amended	41	07/01/2008	134-2008
25-23.6-8-2.5	Amended	42	07/01/2008	134-2008
25-23.6-8-2.7	Amended	43	07/01/2008	134-2008
25-23.6-8-3	Amended	44	07/01/2008	134-2008
25-23.6-8-5	Amended	45	07/01/2008	134-2008

Affected Provisions	Type	SEC.	Effective	P.L.
25-23.6-8-8	Amended	46	07/01/2008	134-2008
25-23.6-8-8.5	New	47	07/01/2008	134-2008
25-23.6-8-9	Amended	48	07/01/2008	134-2008
25-23.6-8-11	Amended	49	07/01/2008	134-2008
25-23.6-8-13	Amended	50	07/01/2008	134-2008
25-23.7-6-2	Amended	44	07/01/2008	105-2008
25-24-1-14	Amended	45	07/01/2008	105-2008
25-26-13-8	Repealed	67	07/01/2008	105-2008
25-26-13-14	Amended	46	07/01/2008	105-2008
25-26-13-22	Amended	47	07/01/2008	105-2008
25-26-17-4.5	New	48	01/01/2009	105-2008
25-26-17-5	Amended	49	01/01/2009	105-2008
25-26-21-2	Amended	50	07/01/2008	105-2008
25-26-21-3	Amended	51	07/01/2008	105-2008
25-26-21-5	Amended	64	07/01/2008	2-2008
25-26-21-7	Amended	52	07/01/2008	105-2008
25-26-21-8	Amended	53	07/01/2008	105-2008
25-27.5-2-11	Amended	189	03/13/2008	3-2008
25-27.5-2-14	Amended	190	03/13/2008	3-2008
25-27.5-3-8	Amended	191	03/13/2008	3-2008
25-27.5-4-5	Amended	192	03/13/2008	3-2008
25-27.5-4-6	Amended	193	03/13/2008	3-2008
25-27.5-4-8	Amended	194	03/13/2008	3-2008
25-27.5-6-8	New	54	07/01/2008	105-2008
25-27.5-7-1	Amended	195	03/13/2008	3-2008
25-28.5-1-22	Amended	55	07/01/2008	105-2008
25-29-6-3	Amended	56	07/01/2008	105-2008
25-30-1-2	Amended	196	03/13/2008	3-2008
25-30-1-8	Amended	197	03/13/2008	3-2008
25-30-1-16	Amended	57	07/01/2008	105-2008
25-30-1-18	Amended	198	03/13/2008	3-2008
25-30-1.3-6	Amended	199	03/13/2008	3-2008
25-30-1.3-9	Amended	200	03/13/2008	3-2008
25-30-1.3-17	Amended	58	07/01/2008	105-2008
25-30-1.3-19	Amended	201	03/13/2008	3-2008
25-30-1.3-23	Amended	202	03/13/2008	3-2008
25-31-1-17	Amended	59	07/01/2008	105-2008
25-31.5-1-12	Amended	65	07/01/2008	2-2008
25-32-1-13	Amended	60	07/01/2008	105-2008
25-33-1-10	Amended	61	07/01/2008	105-2008
25-34.1-3-3.1	Amended	62	07/01/2008	105-2008
25-34.1-3-4.1	Amended	63	07/01/2008	105-2008
25-34.1-3-8	Amended	530	07/01/2008	146-2008
25-34.1-8-9	Amended	203	03/13/2008	3-2008

Affected Provisions	Type	SEC.	Effective	P.L.
25-34.1-8-10	Amended	30	07/01/2008	145-2008
25-34.1-8-12	Amended	204	03/13/2008	3-2008
25-35.6-3-6	Amended	64	07/01/2008	105-2008
25-37.5-1-0.3	New	2	03/13/2008	63-2008
25-37.5-1-0.6	New	3	03/13/2008	63-2008
25-37.5-1-1	Amended	205	03/13/2008	3-2008
25-37.5-1-1	Amended	4	03/13/2008	63-2008
25-37.5-1-3	Amended	206	03/13/2008	3-2008
25-38.1	New	12	07/01/2008	2-2008
25-38.1-1-1	Amended	1	07/01/2008	58-2008
25-38.1-1-1.5	New	2	07/01/2008	58-2008
25-38.1-1-3.5	New	3	07/01/2008	58-2008
25-38.1-1-6	Repealed	51	07/01/2008	58-2008
25-38.1-1-7.3	New	4	07/01/2008	58-2008
25-38.1-1-7.5	New	5	07/01/2008	58-2008
25-38.1-1-7.6	New	6	07/01/2008	58-2008
25-38.1-1-7.7	New	7	07/01/2008	58-2008
25-38.1-1-9	Amended	8	07/01/2008	58-2008
25-38.1-1-9.3	New	9	07/01/2008	58-2008
25-38.1-1-9.5	New	10	07/01/2008	58-2008
25-38.1-1-10.5	New	11	07/01/2008	58-2008
25-38.1-1-12	Amended	12	07/01/2008	58-2008
25-38.1-1-13	Amended	13	07/01/2008	58-2008
25-38.1-1-14.5	New	14	07/01/2008	58-2008
25-38.1-1-14.7	New	15	07/01/2008	58-2008
25-38.1-1-16	Repealed	51	07/01/2008	58-2008
25-38.1-2-1	Amended	16	07/01/2008	58-2008
25-38.1-2-2	Amended	17	07/01/2008	58-2008
25-38.1-2-4	Amended	18	07/01/2008	58-2008
25-38.1-2-7	Amended	19	07/01/2008	58-2008
25-38.1-2-9	Amended	20	07/01/2008	58-2008
25-38.1-2-10	Amended	21	07/01/2008	58-2008
25-38.1-2-12	Amended	22	07/01/2008	58-2008
25-38.1-2-13	Amended	23	07/01/2008	58-2008
25-38.1-2-14	Amended	24	07/01/2008	58-2008
25-38.1-2-19	Amended	25	07/01/2008	58-2008
25-38.1-2-25	New	26	07/01/2008	58-2008
25-38.1-3-1	Amended	27	07/01/2008	58-2008
25-38.1-3-2	Amended	28	07/01/2008	58-2008
25-38.1-3-4	Amended	29	07/01/2008	58-2008
25-38.1-3-5.5	New	30	07/01/2008	58-2008
25-38.1-3-6	Amended	31	07/01/2008	58-2008
25-38.1-3-7	Amended	32	07/01/2008	58-2008
25-38.1-3-8	Amended	33	07/01/2008	58-2008

Affected Provisions	Type	SEC.	Effective	P.L.
25-38.1-3-11	Amended	34	07/01/2008	58-2008
25-38.1-3-12	Amended	35	07/01/2008	58-2008
25-38.1-3-13	Amended	36	07/01/2008	58-2008
25-38.1-4-1	Amended	37	07/01/2008	58-2008
25-38.1-4-2	Amended	38	07/01/2008	58-2008
25-38.1-4-3	Amended	39	07/01/2008	58-2008
25-38.1-4-4	Repealed	51	07/01/2008	58-2008
25-38.1-4-5	Amended	40	07/01/2008	58-2008
25-38.1-4-5.5	New	41	07/01/2008	58-2008
25-38.1-4-6	Amended	42	07/01/2008	58-2008
25-38.1-4-8	Amended	43	07/01/2008	58-2008
25-38.1-4-8.5	New	44	07/01/2008	58-2008
25-38.1-4-9	Amended	45	07/01/2008	58-2008
25-38.1-4-10	Amended	46	07/01/2008	58-2008
25-38.1-4-11	Amended	47	07/01/2008	58-2008
25-38.1-4-11.5	New	48	07/01/2008	58-2008
25-38.1-5	New	49	07/01/2008	58-2008
25-41	New	1	07/01/2009	43-2008

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26-2-8-102	Amended	10	07/01/2008	110-2008
26-2-8-104	Amended	11	07/01/2008	110-2008
26-2-8-106	Amended	12	07/01/2008	110-2008
26-3-7-1	Amended	91	07/01/2008	120-2008
26-3-7-2	Amended	66	07/01/2008	2-2008
26-3-7-6.3	Amended	67	07/01/2008	2-2008
26-4-1-19.5	Amended	68	07/01/2008	2-2008

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27-1-3-15	Amended	207	03/13/2008	3-2008
27-1-3.1-9	Amended	1	07/01/2008	111-2008
27-1-12-40	Amended	2	07/01/2008	111-2008
27-1-12-44	New	1	07/01/2008	112-2008
27-1-13-16	Amended	208	03/13/2008	3-2008
27-1-15.6-7.3	Amended	209	03/13/2008	3-2008
27-1-37.3	New	1	07/01/2008	55-2008
27-1-40-1	Amended	210	03/13/2008	3-2008
27-4-1-4	Amended	211	03/13/2008	3-2008
27-4-1-4	Amended	2	07/01/2008	112-2008
27-7-3-15.5	New	31	03/24/2008	145-2008
27-7-3.6-1	Amended	32	03/24/2008	145-2008
27-8-5-1.5	Amended	3	07/01/2008	111-2008

Affected Provisions	Type	SEC.	Effective	P.L.
27-8-5-2.5	Amended	212	03/13/2008	3-2008
27-8-5-19.2	Repealed	269	03/13/2008	3-2008
27-8-5-22	Amended	4	07/01/2008	101-2008
27-8-10-5.1	Amended	213	03/13/2008	3-2008
27-8-10.1-3	Amended	214	03/13/2008	3-2008
27-8-11-10	New	4	03/21/2008	111-2008
27-8-19.8-7.8	New	3	07/01/2008	112-2008
27-8-19.8-20.1	New	4	07/01/2008	112-2008
27-8-24.2	New	2	07/01/2008	109-2008
27-8-29-6	Amended	215	03/13/2008	3-2008
27-8-29-12	Amended	216	03/13/2008	3-2008
27-8-29-13	Amended	217	03/13/2008	3-2008
27-8-29-15	Amended	218	03/13/2008	3-2008
27-13-1-11.5	New	5	03/21/2008	111-2008
27-13-7-19	New	3	07/01/2008	109-2008
27-13-15-5	New	6	03/21/2008	111-2008

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28-1-2-30.5	New	20	07/01/2008	90-2008
28-1-2-39	Repealed	80	07/01/2008	90-2008
28-1-7-4	Amended	21	07/01/2008	90-2008
28-1-7-5	Amended	22	07/01/2008	90-2008
28-1-7-12	Amended	23	07/01/2008	90-2008
28-1-7-13	Amended	24	07/01/2008	90-2008
28-1-12-8	Amended	219	03/13/2008	3-2008
28-1-13-1.2	Amended	25	07/01/2008	90-2008
28-1-20-4	Amended	26	07/01/2008	90-2008
28-1-29-1	Amended	27	07/01/2008	90-2008
28-1-29-3	Amended	28	07/01/2008	90-2008
28-1-29-5	Amended	29	07/01/2008	90-2008
28-1-29-7.5	Amended	30	07/01/2008	90-2008
28-1-29-8	Amended	31	07/01/2008	90-2008
28-1-29-8	Amended	220	03/13/2008	3-2008
28-1-29-10	Amended	32	07/01/2008	90-2008
28-1-29-12	Amended	33	07/01/2008	90-2008
28-2-13-22.6	New	34	07/01/2008	90-2008
28-2-14-18	Amended	35	07/01/2008	90-2008
28-5-1-3	Amended	221	03/13/2008	3-2008
28-5-1-4	Amended	36	07/01/2008	90-2008
28-5-1-19	Amended	37	07/01/2008	90-2008
28-6.1-6-26	Amended	222	03/13/2008	3-2008
28-6.2-1-10.1	New	38	07/01/2008	90-2008
28-6.2-2-1.5	New	39	07/01/2008	90-2008

Affected Provisions	Type	SEC.	Effective	P.L.
28-7-1-0.5	Amended	40	07/01/2008	90-2008
28-7-1-9	Amended	41	07/01/2008	90-2008
28-7-1-17.1	Amended	42	07/01/2008	90-2008
28-7-1-17.2	New	43	07/01/2008	90-2008
28-7-1-17.3	New	44	07/01/2008	90-2008
28-7-1-22	Amended	45	07/01/2008	90-2008
28-7-1-39	Amended	46	07/01/2008	90-2008
28-7-5-2	Amended	47	07/01/2008	90-2008
28-7-5-3	Amended	48	07/01/2008	90-2008
28-7-5-4	Amended	223	03/13/2008	3-2008
28-7-5-4	Amended	49	07/01/2008	90-2008
28-7-5-8	Amended	50	07/01/2008	90-2008
28-7-5-10.1	Amended	51	07/01/2008	90-2008
28-7-5-10.6	Amended	52	07/01/2008	90-2008
28-7-5-17	Amended	53	07/01/2008	90-2008
28-7-5-38.1	New	54	07/01/2008	90-2008
28-7-5-39	Amended	55	07/01/2008	90-2008
28-8-4-20	Amended	56	07/01/2008	90-2008
28-8-4-22	Repealed	80	07/01/2008	90-2008
28-8-4-23	Repealed	80	07/01/2008	90-2008
28-8-4-25	Amended	224	03/13/2008	3-2008
28-8-4-25	Amended	57	07/01/2008	90-2008
28-8-4-26	Amended	225	03/13/2008	3-2008
28-8-4-26	Repealed	80	07/01/2008	90-2008
28-8-4-35	Amended	58	07/01/2008	90-2008
28-8-4-40.6	Amended	59	07/01/2008	90-2008
28-8-4-45.5	New	60	07/01/2008	90-2008
28-8-4-47	Amended	61	07/01/2008	90-2008
28-8-5-9	Amended	62	07/01/2008	90-2008
28-8-5-11	Amended	63	07/01/2008	90-2008
28-8-5-12	Amended	64	07/01/2008	90-2008
28-8-5-18	Amended	65	07/01/2008	90-2008
28-10-1-1	Amended	66	07/01/2008	90-2008
28-11-1-13.5	New	67	07/01/2008	90-2008
28-11-2-2	Amended	68	07/01/2008	90-2008
28-11-3-1	Amended	69	07/01/2008	90-2008
28-11-3-3	Amended	70	07/01/2008	90-2008
28-11-4-7	Amended	71	07/01/2008	90-2008
28-11-4-10	Amended	72	07/01/2008	90-2008
28-11-4-12	Amended	73	07/01/2008	90-2008
28-11-5-4	Amended	74	07/01/2008	90-2008
28-11-5-4.5	Amended	75	07/01/2008	90-2008
28-11-5-10	New	76	07/01/2008	90-2008
28-13-4-3	Amended	77	07/01/2008	90-2008

Affected Provisions	Type	SEC.	Effective	P.L.
28-13-10-9	Amended	78	07/01/2008	90-2008
28-13-16-6	Amended	79	07/01/2008	90-2008

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29-1-2-1	Amended	5	07/01/2008	101-2008
29-1-13-1.5	New	6	07/01/2008	101-2008
29-1-17-12	Amended	69	07/01/2008	2-2008
29-2-16.1-7	Amended	226	03/13/2008	3-2008
29-3-9-1	Amended	7	07/01/2008	101-2008
29-3-9-11	Amended	531	03/19/2008	146-2008

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30-2-9-7	Amended	4	01/01/2009	61-2008
30-2-10-5	Amended	5	07/01/2008	61-2008
30-2-10-9	Amended	6	01/01/2009	61-2008
30-2-12-5	Amended	227	03/13/2008	3-2008
30-2-13-12.5	Amended	7	07/01/2008	61-2008
30-2-13-13	Amended	8	07/01/2008	61-2008
30-2-13-30	Amended	9	07/01/2008	61-2008
30-2-13-38	Amended	10	01/01/2009	61-2008
30-2-13-39	New	11	07/01/2008	61-2008
30-4-1-1	Amended	12	07/01/2008	61-2008
30-4-1-2	Amended	13	07/01/2008	61-2008
30-4-2.1-12	New	8	07/01/2008	101-2008
30-4-3-11	Amended	228	03/13/2008	3-2008
30-4-3.5-1	Amended	14	07/01/2008	61-2008
30-4-5.5-1	Amended	15	07/01/2008	61-2008
30-5-4-1	Amended	9	07/01/2008	101-2008
30-5-4-2	Amended	10	07/01/2008	101-2008

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31-9-2-5.5	New	532	01/01/2009	146-2008
31-9-2-9.3	Amended	533	07/01/2008	146-2008
31-9-2-9.7	Amended	534	07/01/2008	146-2008
31-9-2-10.3	Amended	535	01/01/2009	146-2008
31-9-2-13	Amended	4	07/01/2008	133-2008
31-9-2-17	Amended	536	03/19/2008	146-2008
31-9-2-17.8	New	537	01/01/2009	146-2008
31-9-2-19.5	Amended	538	07/01/2008	146-2008
31-9-2-19.6	New	539	07/01/2008	146-2008
31-9-2-20.3	New	540	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
31-9-2-24.5	New	541	01/01/2009	146-2008
31-9-2-26	Amended	542	03/19/2008	146-2008
31-9-2-28	Amended	5	07/01/2008	133-2008
31-9-2-39.5	Amended	543	03/19/2008	146-2008
31-9-2-44.3	Repealed	804	03/19/2008	146-2008
31-9-2-44.8	Amended	544	07/01/2008	146-2008
31-9-2-46.7	Amended	1	07/01/2008	143-2008
31-9-2-46.9	Amended	2	07/01/2008	143-2008
31-9-2-50	Amended	6	07/01/2008	133-2008
31-9-2-76.6	New	545	03/19/2008	146-2008
31-9-2-92.5	Amended	546	07/01/2008	146-2008
31-9-2-99.7	Amended	547	03/19/2008	146-2008
31-9-2-102.5	Amended	548	03/19/2008	146-2008
31-9-2-103.6	New	549	07/01/2008	146-2008
31-9-2-103.7	New	550	07/01/2008	146-2008
31-9-2-113.7	New	551	01/01/2009	146-2008
31-9-2-116.4	New	552	01/01/2009	146-2008
31-9-2-116.5	New	7	07/01/2008	133-2008
31-9-2-117.3	New	8	07/01/2008	133-2008
31-9-2-117.5	Amended	3	07/01/2008	143-2008
31-9-2-129	Amended	553	07/01/2008	146-2008
31-9-2-129.5	Amended	4	07/01/2008	143-2008
31-9-2-130.3	New	5	07/01/2008	143-2008
31-9-2-135	Amended	554	03/19/2008	146-2008
31-14-10-1	Amended	555	01/01/2009	146-2008
31-14-10-2	Amended	556	01/01/2009	146-2008
31-14-11-11	Amended	229	03/13/2008	3-2008
31-14-11-15	Amended	230	03/13/2008	3-2008
31-14-13-5	Amended	557	01/01/2009	146-2008
31-16-9-1	Amended	231	03/13/2008	3-2008
31-16-9-3	Amended	232	03/13/2008	3-2008
31-16-16-3	Amended	233	03/13/2008	3-2008
31-16-16-4	Amended	234	03/13/2008	3-2008
31-16-16-5	Amended	235	03/13/2008	3-2008
31-16-17-2	Amended	236	03/13/2008	3-2008
31-17-2-12	Amended	558	01/01/2009	146-2008
31-17-2-15	Amended	237	03/13/2008	3-2008
31-17-2-18	Amended	559	01/01/2009	146-2008
31-17-6-1	Amended	9	07/01/2008	133-2008
31-19-11-1	Amended	238	03/13/2008	3-2008
31-19-11-2	Amended	560	03/19/2008	146-2008
31-19-11-3	Amended	561	01/01/2009	146-2008
31-19-26	Repealed	806	01/01/2009	146-2008
31-19-26.5	New	562	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
31-25-2-2.5	New	563	03/19/2008	146-2008
31-25-2-5	Amended	564	07/01/2008	146-2008
31-25-2-7	Amended	565	07/01/2008	146-2008
31-25-2-17	Repealed	806	01/01/2009	146-2008
31-25-2-19	Amended	566	01/01/2009	146-2008
31-25-2-20	Amended	239	03/13/2008	3-2008
31-25-2-20.1	New	567	01/01/2009	146-2008
31-25-2-20.2	New	568	01/01/2009	146-2008
31-25-2-21	New	6	07/01/2008	143-2008
31-25-4-31	Amended	7	03/15/2008	138-2008
31-26-2-10	Amended	569	01/01/2009	146-2008
31-26-3	Repealed	805	07/01/2008	146-2008
31-26-3.5	New	570	07/01/2008	146-2008
31-26-6	New	571	07/01/2008	146-2008
31-27-4-2	Amended	7	07/01/2008	143-2008
31-27-4-3	Amended	8	07/01/2008	143-2008
31-27-4-8	Amended	9	07/01/2008	143-2008
31-28-4-1.5	New	10	07/01/2008	143-2008
31-28-5	New	10	07/01/2008	133-2008
31-28-5.7	New	11	07/01/2008	143-2008
31-28-6	New	12	07/01/2008	143-2008
31-30-1-2	Amended	1	07/01/2008	67-2008
31-30-1-4	Amended	2	07/01/2008	67-2008
31-30-3-2	Amended	3	07/01/2008	67-2008
31-31-8-3	Amended	572	01/01/2009	146-2008
31-31-8-4	Amended	573	01/01/2009	146-2008
31-33-3-1	Amended	574	07/01/2008	146-2008
31-33-3-7	Amended	575	07/01/2008	146-2008
31-33-4-1	Amended	576	07/01/2008	146-2008
31-33-4-2	Amended	577	07/01/2008	146-2008
31-33-4-4	Repealed	806	01/01/2009	146-2008
31-33-21	Repealed	806	01/01/2009	146-2008
31-34-4-2	Amended	578	01/01/2009	146-2008
31-34-4-7	New	579	01/01/2009	146-2008
31-34-5-3	Amended	580	01/01/2009	146-2008
31-34-6-2	Amended	581	01/01/2009	146-2008
31-34-6-3	Amended	582	01/01/2009	146-2008
31-34-7-2	Amended	583	07/01/2008	146-2008
31-34-8-1	Amended	584	07/01/2008	146-2008
31-34-8-3	Amended	585	07/01/2008	146-2008
31-34-8-5	Repealed	804	03/19/2008	146-2008
31-34-8-6	Amended	586	07/01/2008	146-2008
31-34-8-7	Amended	587	07/01/2008	146-2008
31-34-8-8	Repealed	805	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
31-34-8-9	Repealed	805	07/01/2008	146-2008
31-34-9-1	Amended	588	07/01/2008	146-2008
31-34-13-4	Amended	589	07/01/2008	146-2008
31-34-14-2	Amended	590	07/01/2008	146-2008
31-34-14-3	Amended	591	07/01/2008	146-2008
31-34-14-4	Amended	592	07/01/2008	146-2008
31-34-14-6	Amended	593	07/01/2008	146-2008
31-34-14-7	Amended	594	07/01/2008	146-2008
31-34-15-3	Amended	595	07/01/2008	146-2008
31-34-16-1	Amended	596	07/01/2008	146-2008
31-34-18-1	Amended	597	07/01/2008	146-2008
31-34-18-2	Amended	598	07/01/2008	146-2008
31-34-18-3	Amended	599	07/01/2008	146-2008
31-34-18-6.1	Amended	600	07/01/2008	146-2008
31-34-19-6.1	New	601	01/01/2009	146-2008
31-34-20-1	Amended	602	01/01/2009	146-2008
31-34-20-1.5	Amended	603	07/01/2008	146-2008
31-34-20-5	Amended	604	07/01/2008	146-2008
31-34-21-2	Amended	605	07/01/2008	146-2008
31-34-21-3	Amended	606	07/01/2008	146-2008
31-34-21-4	Amended	3	03/13/2008	72-2008
31-34-21-5	Amended	607	07/01/2008	146-2008
31-34-21-7	Amended	4	03/13/2008	72-2008
31-34-21-7.5	Amended	608	07/01/2008	146-2008
31-34-21-8	Amended	609	07/01/2008	146-2008
31-34-22-1	Amended	610	07/01/2008	146-2008
31-34-23-1	Amended	611	07/01/2008	146-2008
31-34-23-2	Repealed	804	03/19/2008	146-2008
31-34-23-3	Amended	612	07/01/2008	146-2008
31-34-23-4	Amended	613	01/01/2009	146-2008
31-34-24	Repealed	805	07/01/2008	146-2008
31-34-25-1	Amended	614	07/01/2008	146-2008
31-35-2-4	Amended	615	07/01/2008	146-2008
31-35-2-4.5	Amended	616	07/01/2008	146-2008
31-35-2-5	Amended	617	07/01/2008	146-2008
31-35-3-4	Amended	618	07/01/2008	146-2008
31-35-3-6	Amended	619	07/01/2008	146-2008
31-35-4-4	Amended	620	07/01/2008	146-2008
31-35-5-2	Amended	621	07/01/2008	146-2008
31-35-5-3	Amended	622	07/01/2008	146-2008
31-36-3	New	11	07/01/2008	133-2008
31-37-4-3	Amended	240	03/13/2008	3-2008
31-37-4-4	New	4	07/01/2008	67-2008
31-37-5-8	New	623	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
31-37-6-6	Amended	624	01/01/2009	146-2008
31-37-7-1	Amended	625	07/01/2008	146-2008
31-37-8-2	Amended	626	07/01/2008	146-2008
31-37-8-5	Amended	627	07/01/2008	146-2008
31-37-8-6	Amended	628	07/01/2008	146-2008
31-37-9-1	Amended	629	01/01/2009	146-2008
31-37-9-2	Amended	630	01/01/2009	146-2008
31-37-9-4	Amended	631	07/01/2008	146-2008
31-37-9-7	Amended	632	07/01/2008	146-2008
31-37-10-1	Amended	633	07/01/2008	146-2008
31-37-10-5	Amended	634	07/01/2008	146-2008
31-37-13-2	Amended	635	07/01/2008	146-2008
31-37-15-1	Amended	636	07/01/2008	146-2008
31-37-17-1	Amended	637	01/01/2009	146-2008
31-37-17-1.3	Amended	638	01/01/2009	146-2008
31-37-17-1.4	New	639	01/01/2009	146-2008
31-37-17-2	Amended	640	07/01/2008	146-2008
31-37-17-3	Amended	641	07/01/2008	146-2008
31-37-17-4	Amended	642	01/01/2009	146-2008
31-37-17-6.1	Amended	643	07/01/2008	146-2008
31-37-18-4	Amended	644	07/01/2008	146-2008
31-37-18-5	Amended	645	07/01/2008	146-2008
31-37-18-9	Amended	646	01/01/2009	146-2008
31-37-19-1	Amended	647	01/01/2009	146-2008
31-37-19-1.5	New	648	07/01/2008	146-2008
31-37-19-3	Amended	649	01/01/2009	146-2008
31-37-19-5	Amended	650	07/01/2008	146-2008
31-37-19-6	Amended	651	01/01/2009	146-2008
31-37-19-6.5	Amended	652	07/01/2008	146-2008
31-37-19-17.4	Amended	653	01/01/2009	146-2008
31-37-20-1	Amended	654	07/01/2008	146-2008
31-37-20-2	Amended	655	07/01/2008	146-2008
31-37-20-3	Amended	656	07/01/2008	146-2008
31-37-20-4	Amended	657	07/01/2008	146-2008
31-37-21-1	Amended	658	07/01/2008	146-2008
31-37-22-1	Amended	659	07/01/2008	146-2008
31-37-22-3	Amended	660	01/01/2009	146-2008
31-37-22-5	Amended	661	07/01/2008	146-2008
31-37-24	Repealed	805	07/01/2008	146-2008
31-37-25-1	Amended	662	07/01/2008	146-2008
31-40-1-1	Amended	663	01/01/2009	146-2008
31-40-1-1.5	New	664	01/01/2009	146-2008
31-40-1-2	Amended	665	01/01/2009	146-2008
31-40-1-2.5	New	666	01/01/2009	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
31-40-1-3	Amended	667	01/01/2009	146-2008
31-40-1-4	Amended	668	01/01/2009	146-2008
31-40-1-5	Amended	669	01/01/2009	146-2008
31-40-1-6	Amended	670	01/01/2009	146-2008
31-40-1-7	Amended	671	01/01/2009	146-2008
31-40-4-1	Amended	672	01/01/2009	146-2008

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32-17-13-4	Amended	11	07/01/2008	101-2008
32-20-3-2	Amended	2	07/01/2008	18-2008
32-21-2-13	Amended	673	07/01/2008	146-2008
32-21-4-1	Amended	1	07/01/2008	129-2008
32-21-5-5.5	Repealed	269	03/13/2008	3-2008
32-28-3-1	Amended	674	07/01/2008	146-2008
32-28-3-3	Amended	675	07/01/2008	146-2008
32-29-7-3	Amended	1	07/01/2008	100-2008
32-31-2.9-4	Amended	1	07/01/2008	62-2008
32-31-3-7	Amended	2	07/01/2008	62-2008
32-31-5-7	New	4	07/01/2008	17-2008
32-31-7-1	Amended	3	07/01/2008	62-2008
32-31-7-5	Amended	5	07/01/2008	17-2008
32-31-8-1	Amended	4	07/01/2008	62-2008
32-34-1-1	Amended	70	07/01/2008	2-2008
32-34-3-3	Amended	1	07/01/2008	23-2008

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33-23-5-5	Amended	3	07/01/2008	127-2008
33-23-5-8	Amended	4	07/01/2008	127-2008
33-23-5-13	Amended	1	07/01/2008	122-2008
33-23-11-14	Amended	5	07/01/2008	127-2008
33-23-11-16	Amended	6	07/01/2008	127-2008
33-30-2-1	Amended	7	01/01/2009	127-2008
33-30-2-4	Repealed	21	01/01/2009	127-2008
33-31-1-24	Amended	8	07/01/2008	127-2008
33-33-2-14	Amended	9	07/01/2008	127-2008
33-33-15-1	Amended	10	01/01/2009	127-2008
33-33-24-1	Amended	11	07/01/2008	127-2008
33-33-24-2	Amended	12	07/01/2008	127-2008
33-33-24-2	Repealed	21	01/01/2009	127-2008
33-33-39-1	Amended	13	01/01/2009	127-2008
33-33-48-2	Amended	14	07/01/2008	127-2008
33-33-48-11	Amended	15	07/01/2008	127-2008

Affected Provisions	Type	SEC.	Effective	P.L.
33-33-52-3	Amended	16	07/01/2008	127-2008
33-33-58-1	Repealed	21	01/01/2009	127-2008
33-33-58-2	Amended	17	01/01/2009	127-2008
33-33-58-3	Repealed	21	01/01/2009	127-2008
33-33-58-4	Repealed	21	01/01/2009	127-2008
33-33-58-5	Repealed	21	01/01/2009	127-2008
33-33-58-6	Repealed	21	01/01/2009	127-2008
33-33-58-7	Repealed	21	01/01/2009	127-2008
33-33-58-8	Repealed	21	01/01/2009	127-2008
33-33-58-9	Repealed	21	01/01/2009	127-2008
33-33-58-11	Repealed	21	01/01/2009	127-2008
33-33-58-12	Repealed	21	01/01/2009	127-2008
33-33-58-13	Repealed	21	01/01/2009	127-2008
33-33-58-14	Repealed	21	01/01/2009	127-2008
33-33-71-69	Amended	18	07/01/2008	127-2008
33-33-78-1	Repealed	21	01/01/2009	127-2008
33-33-78-2	Amended	19	01/01/2009	127-2008
33-33-78-3	Repealed	21	01/01/2009	127-2008
33-33-78-4	Repealed	21	01/01/2009	127-2008
33-33-78-5	Repealed	21	01/01/2009	127-2008
33-33-78-6	Repealed	21	01/01/2009	127-2008
33-33-78-7	Repealed	21	01/01/2009	127-2008
33-33-78-8	Repealed	21	01/01/2009	127-2008
33-33-78-9	Repealed	21	01/01/2009	127-2008
33-33-78-11	Repealed	21	01/01/2009	127-2008
33-33-78-12	Repealed	21	01/01/2009	127-2008
33-33-78-13	Repealed	21	01/01/2009	127-2008
33-33-78-14	Repealed	21	01/01/2009	127-2008
33-34-8-3	Amended	2	07/01/2008	122-2008
33-37-5-7	Amended	71	07/01/2008	2-2008
33-37-5-8	Amended	6	07/01/2008	97-2008
33-37-5-26	Amended	241	03/13/2008	3-2008
33-37-5-27	Amended	3	07/01/2008	122-2008
33-37-7-2	Amended	5	03/21/2008	104-2008
33-37-7-2	Amended	4	07/01/2008	122-2008
33-37-7-9	Amended	5	07/01/2008	122-2008
33-37-8-5	Amended	676	01/01/2009	146-2008
33-38-6-9	Amended	6	07/01/2008	122-2008
33-38-6-11	Amended	7	07/01/2008	122-2008
33-38-6-25	Amended	8	07/01/2008	122-2008
33-38-7-19	Amended	9	07/01/2008	122-2008
33-38-8-1	Amended	10	07/01/2008	122-2008
33-38-8-7	Amended	11	07/01/2008	122-2008
33-38-8-9	Amended	12	07/01/2008	122-2008

Affected Provisions	Type	SEC.	Effective	P.L.
33-38-8-10	Amended	13	07/01/2008	122-2008
33-38-8-10.5	New	14	07/01/2008	122-2008
33-38-8-11	Amended	15	07/01/2008	122-2008
33-38-8-12	Amended	16	07/01/2008	122-2008
33-38-8-13	Amended	17	07/01/2008	122-2008
33-38-8-14	Amended	18	07/01/2008	122-2008
33-38-8-17	Amended	19	07/01/2008	122-2008
33-38-8-21	Amended	20	07/01/2008	122-2008
33-38-8-22	Amended	21	07/01/2008	122-2008
33-38-8-22.5	New	22	07/01/2008	122-2008
33-38-8-23	Amended	23	07/01/2008	122-2008
33-38-8-25	New	24	07/01/2008	122-2008
33-38-9-8	Amended	677	01/01/2009	146-2008
33-39-6-2	Amended	20	01/01/2009	127-2008

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34-17-2-1	Amended	678	07/01/2008	146-2008
34-23-2-1	Amended	242	03/13/2008	3-2008
34-24-1-1	Amended	13	07/01/2008	119-2008
34-24-1-1	Amended	27	03/24/2008	114-2008
34-26-5-3	Amended	243	03/13/2008	3-2008
34-30-2-11.2	New	5	07/01/2008	13-2008
34-30-2-16.8	New	8	03/15/2008	138-2008
34-30-2-19.5	New	60	07/01/2008	94-2008
34-30-2-26.5	New	3	03/12/2008	50-2008
34-30-2-46	Amended	679	03/19/2008	146-2008
34-30-2-56.5	New	6	07/01/2008	4-2008
34-30-2-58	Amended	72	07/01/2008	2-2008
34-30-2-59	Amended	73	07/01/2008	2-2008
34-30-2-60	Amended	74	07/01/2008	2-2008
34-30-2-61	Amended	75	07/01/2008	2-2008
34-30-2-62	Amended	76	07/01/2008	2-2008
34-30-2-62.2	New	50	07/01/2008	58-2008
34-30-2-63	Amended	77	07/01/2008	2-2008
34-30-2-64	Amended	78	07/01/2008	2-2008
34-30-2-64	Amended	92	07/01/2008	120-2008
34-30-2-83.2	Amended	244	03/13/2008	3-2008
34-30-2-83.5	Amended	245	03/13/2008	3-2008
34-30-2-86.7	New	9	03/15/2008	138-2008
34-30-2-87.2	New	6	07/01/2008	13-2008
34-30-2-99.5	New	51	07/01/2008	134-2008
34-30-2-122.9	New	12	07/01/2008	101-2008
34-30-2-133.5	New	13	07/01/2008	143-2008

Affected Provisions	Type	SEC.	Effective	P.L.
34-30-2-133.6	New	680	03/19/2008	146-2008
34-30-12-1	Amended	11	07/01/2008	126-2008
34-30-14-1	Amended	246	03/13/2008	3-2008
34-55-10-2	Amended	33	07/01/2008	145-2008

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35-33-1-1.7	New	1	07/01/2008	44-2008
35-33-8-3.2	Amended	6	07/01/2008	104-2008
35-33-8-3.5	New	1	07/01/2008	74-2008
35-33-8-6.5	New	2	07/01/2008	44-2008
35-33.5-1-3	Amended	247	03/13/2008	3-2008
35-33.5-4-1	Amended	248	03/13/2008	3-2008
35-37-6-1	Amended	7	07/01/2008	104-2008
35-37-6-1.5	New	8	07/01/2008	104-2008
35-37-6-2	Repealed	24	07/01/2008	104-2008
35-37-6-2.5	New	9	07/01/2008	104-2008
35-37-6-3	Amended	10	07/01/2008	104-2008
35-37-6-3.5	New	11	07/01/2008	104-2008
35-37-6-4	Repealed	24	07/01/2008	104-2008
35-37-6-5	Amended	12	07/01/2008	104-2008
35-37-6-6	Repealed	24	07/01/2008	104-2008
35-37-6-8	Amended	13	07/01/2008	104-2008
35-37-6-9	Amended	14	07/01/2008	104-2008
35-37-6-11	Amended	15	07/01/2008	104-2008
35-37-6-13	New	16	07/01/2008	104-2008
35-37-6-14	New	17	07/01/2008	104-2008
35-37-6-15	New	18	07/01/2008	104-2008
35-37-6-16	New	19	07/01/2008	104-2008
35-37-6-17	New	20	07/01/2008	104-2008
35-38-1-7.1	Amended	14	07/01/2008	119-2008
35-38-1-14	Amended	15	07/01/2008	119-2008
35-38-1-30	New	21	07/01/2008	104-2008
35-38-2-2.2	Amended	16	07/01/2008	119-2008
35-38-2-2.3	Amended	249	03/13/2008	3-2008
35-38-2-3	Amended	1	07/01/2008	48-2008
35-38-2.5-5.5	Amended	2	07/01/2008	48-2008
35-38-3-2	Amended	17	07/01/2008	119-2008
35-38-4-7	Amended	250	03/13/2008	3-2008
35-41-1-3.1	New	681	01/01/2009	146-2008
35-41-1-5.5	New	1	07/01/2008	80-2008
35-41-1-10.5	Amended	682	01/01/2009	146-2008
35-41-1-22	Amended	251	03/13/2008	3-2008
35-42-2-1	Amended	93	07/01/2008	120-2008

Affected Provisions	Type	SEC.	Effective	P.L.
35-42-4-12	New	18	07/01/2008	119-2008
35-42-4-13	New	19	07/01/2008	119-2008
35-43-5-20	New	5	07/01/2008	81-2008
35-44-3-3.5	New	1	07/01/2008	64-2008
35-45-5-1	Amended	252	03/13/2008	3-2008
35-45-5-12	New	16	07/01/2008	95-2008
35-45-6-1	Amended	253	07/01/2008	3-2008
35-45-19	New	1	07/01/2008	68-2008
35-46-1-9	Amended	683	03/19/2008	146-2008
35-46-1-10.1	New	61	07/01/2008	94-2008
35-46-1-10.2	Amended	62	07/01/2008	94-2008
35-46-1-11	Amended	63	07/01/2008	94-2008
35-46-1-11.7	Amended	64	07/01/2008	94-2008
35-46-1-12	Amended	684	03/19/2008	146-2008
35-46-1-15.1	Amended	22	07/01/2008	104-2008
35-46-1-22	Amended	685	03/19/2008	146-2008
35-46-3-5	Amended	79	07/01/2008	2-2008
35-46-3-6	Amended	80	07/01/2008	2-2008
35-46-3-15	New	13	07/01/2008	2-2008
35-47-1-5	Amended	254	03/13/2008	3-2008
35-47-4.5-3	Amended	255	03/13/2008	3-2008
35-48-2-4	Amended	1	07/01/2008	22-2008
35-48-2-6	Amended	2	07/01/2008	22-2008
35-48-2-8	Amended	3	07/01/2008	22-2008
35-48-2-10	Amended	4	07/01/2008	22-2008
35-48-2-12	Amended	5	07/01/2008	22-2008
35-48-7-2.9	New	65	01/01/2009	105-2008
35-48-7-3	Repealed	66	01/01/2009	105-2008
35-48-7-8	Repealed	269	03/13/2008	3-2008
35-48-7-10	Repealed	269	03/13/2008	3-2008
35-48-7-11	Repealed	269	03/13/2008	3-2008
35-48-7-12	Repealed	269	03/13/2008	3-2008
35-48-7-13	Repealed	269	03/13/2008	3-2008
35-50-1-2	Amended	12	07/01/2008	126-2008
35-50-2-2	Amended	2	07/01/2008	64-2008
35-50-6-3	Amended	2	07/01/2008	80-2008
35-50-6-3.3	Amended	3	07/01/2008	80-2008
35-50-6-4	Amended	4	07/01/2008	80-2008
35-50-6-5	Amended	5	07/01/2008	80-2008

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36-1-8-14.2	Amended	686	07/01/2008	146-2008
36-1-11-3	Amended	1	07/01/2008	27-2008

Affected Provisions	Type	SEC.	Effective	P.L.
36-1-11-4	Amended	2	07/01/2008	27-2008
36-1-11-5.7	Amended	6	07/01/2008	128-2008
36-1-11-5.9	New	3	07/01/2008	27-2008
36-2-5-5	Amended	687	07/01/2008	146-2008
36-2-6-4.5	Amended	688	01/01/2009	146-2008
36-2-6-8	Amended	689	07/01/2008	146-2008
36-2-6-22	Amended	690	07/01/2008	146-2008
36-2-7-10	Amended	256	03/13/2008	3-2008
36-2-7-13	Amended	691	07/01/2008	146-2008
36-2-11-16	Amended	2	07/01/2008	129-2008
36-2-13-2.5	Amended	2	01/01/2009	40-2008
36-2-13-2.8	Amended	3	01/01/2009	40-2008
36-2-13-5	Amended	5	07/01/2008	63-2008
36-2-13-17	New	4	01/01/2009	40-2008
36-2-13-17.4	New	13	07/01/2008	83-2008
36-2-14-18	Amended	257	03/13/2008	3-2008
36-2-14-22.2	Repealed	269	03/13/2008	3-2008
36-2-14-22.3	New	258	03/13/2008	3-2008
36-2-14-22.4	New	259	03/13/2008	3-2008
36-2-14-23	Amended	260	03/13/2008	3-2008
36-2-15-3	Amended	692	07/01/2008	146-2008
36-2-15-5	Amended	261	03/13/2008	3-2008
36-2-15-5	Amended	693	07/01/2008	146-2008
36-2-15-7.4	New	694	07/01/2008	146-2008
36-2-15-8	New	695	07/01/2008	146-2008
36-2-15-9	New	696	07/01/2008	146-2008
36-2-15-10	New	697	07/01/2008	146-2008
36-2-15-11	New	698	07/01/2008	146-2008
36-2-16-8	Amended	699	07/01/2008	146-2008
36-2-18-1	Amended	81	07/01/2008	2-2008
36-2-19-7	Amended	700	07/01/2008	146-2008
36-3-2-10	Amended	701	07/01/2008	146-2008
36-3-2-11	Amended	702	07/01/2008	146-2008
36-3-5-8	Amended	703	07/01/2008	146-2008
36-3-6-4	Amended	704	07/01/2008	146-2008
36-3-6-9	Amended	705	07/01/2008	146-2008
36-3-7-5	Amended	706	01/01/2009	146-2008
36-4-5-9	Amended	3	07/01/2008	37-2008
36-4-13	New	2	07/01/2008	69-2008
36-5-1-3	Amended	707	07/01/2008	146-2008
36-5-2-11	Amended	708	07/01/2008	146-2008
36-6-4-3	Amended	82	07/01/2008	2-2008
36-6-4-3	Amended	709	07/01/2008	146-2008
36-6-5-1	Amended	710	07/01/2008	146-2008

Affected Provisions	Type	SEC.	Effective	P.L.
36-6-5-1	Amended	262	03/13/2008	3-2008
36-6-5-2	Repealed	818	07/01/2008	146-2008
36-6-5-3	Amended	711	01/01/2009	146-2008
36-6-5-4	New	712	07/01/2008	146-2008
36-6-6-10	Amended	713	07/01/2008	146-2008
36-6-6-13.5	New	714	03/19/2008	146-2008
36-6-6-14	Amended	715	03/19/2008	146-2008
36-6-6-15	Amended	716	03/19/2008	146-2008
36-6-8-5	Amended	717	07/01/2008	146-2008
36-7-4-207	Amended	718	07/01/2008	146-2008
36-7-11.2-58	Amended	719	07/01/2008	146-2008
36-7-11.3-6	Amended	720	07/01/2008	146-2008
36-7-11.3-52	Amended	721	07/01/2008	146-2008
36-7-11.9-3	Amended	53	07/01/2008	131-2008
36-7-12-27	Amended	722	07/01/2008	146-2008
36-7-13.5-2	Amended	1	07/01/2008	33-2008
36-7-13.5-3	Amended	2	07/01/2008	33-2008
36-7-14-6.1	Amended	723	07/01/2008	146-2008
36-7-14-10	Amended	724	07/01/2008	146-2008
36-7-14-15	Amended	725	07/01/2008	146-2008
36-7-14-15.5	Amended	726	07/01/2008	146-2008
36-7-14-16	Amended	727	07/01/2008	146-2008
36-7-14-17	Amended	728	07/01/2008	146-2008
36-7-14-17.5	Amended	729	07/01/2008	146-2008
36-7-14-20	Amended	730	07/01/2008	146-2008
36-7-14-24	Amended	731	07/01/2008	146-2008
36-7-14-25.1	Amended	732	07/01/2008	146-2008
36-7-14-25.2	Amended	733	07/01/2008	146-2008
36-7-14-27	Amended	734	07/01/2008	146-2008
36-7-14-27.5	Amended	735	03/19/2008	146-2008
36-7-14-32.5	Amended	736	07/01/2008	146-2008
36-7-14-35	Amended	737	07/01/2008	146-2008
36-7-14-39	Amended	738	07/01/2008	146-2008
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36-7-14-39.5	Repealed	813	01/01/2009	146-2008
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36-7-15.1-16	Amended	750	07/01/2008	146-2008
36-7-15.1-17	Amended	751	07/01/2008	146-2008
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36-7-15.1-26	Amended	755	07/01/2008	146-2008
36-7-15.1-26.1	Repealed	812	07/01/2008	146-2008
36-7-15.1-26.5	Repealed	813	01/01/2009	146-2008
36-7-15.1-26.7	Repealed	813	01/01/2009	146-2008
36-7-15.1-26.9	Amended	756	03/19/2008	146-2008
36-7-15.1-26.9	Repealed	813	01/01/2009	146-2008
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36-7-32-18	Amended	264	03/13/2008	3-2008
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36-8-6-5	Amended	776	03/19/2008	146-2008
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